

# Docket Report

## Case Description

**Case ID:** 110600031  
**Case Caption:** JOYCE VS DEVASTEY ETAL  
**Filing Date:** Monday , June 06th, 2011  
**Location:** CH - City Hall  
**Case Type:** 20 - PERSONAL INJURY - OTHER  
**Status:** CLLSC - LISTED FOR SETTLEMENT CONF

## Related Cases

*No related cases were found.*

## Case Event Schedule

Event	Date/Time	Room	Location	Judge
PROJECTED SETTLEMENT CONF DATE	01-OCT-2012 09:00 AM	City Hall	Courtroom 443, City Hall	LACHMAN, MARLENE F
PROJECTED PRE-TRIAL CONF. DATE	03-DEC-2012 09:00 AM	City Hall	Courtroom 443, City Hall	LACHMAN, MARLENE F
PROJECTED TRIAL DATE	07-JAN-2013 09:00 AM	City Hall	Courtroom 443, City Hall	LACHMAN, MARLENE F

## Case Motions

Motion	Assign/Date	Control No	Date/Received	Judge
STIPULATION FILED	09-FEB-2012	12020504	06-FEB-2012	LACHMAN, MARLENE F
MISCELLANEOUS MOTION	<i>pending</i>	12020682	06-FEB-2012	LACHMAN, MARLENE F

## Case Parties

Seq #	Assoc	Expn Date	Type	ID	Name
1			ATTORNEY	A76081	ROSENFELD, LEE D

			FOR PLAINTIFF		
<b>Address:</b>	MESSA & ASSOCIATES PC 123 SOUTH 22ND STREET PHILADELPHIA PA 19103 (215)568-3500 (215)568-3501 - FAX		<b>Aliases:</b>	none	
2	1		PLAINTIFF	@6972289	JOYCE, FRANCES
<b>Address:</b>	6650 DICKS AVENUE PHILADELPHIA PA 19142		<b>Aliases:</b>	none	
3	12		DEFENDANT	@6972290	DEVASTEY, RICHARD
<b>Address:</b>	5601 CHESTER AVENUE PHILADELPHIA PA 19143		<b>Aliases:</b>	none	
4	11		DEFENDANT	@6972291	CITY OF PHILADELPHIA, C/O LAW DEPARTMENT
<b>Address:</b>	1515 ARCH ST., 14TH FLOOR PHILADELPHIA PA 19102		<b>Aliases:</b>	none	
5	16		DEFENDANT	@6972292	PROGRESS BANK OF FLORIDA C/O FDIC AS RECEIVER PROGRESS BANK
<b>Address:</b>	7777 BAYMEADOWS WAY WEST JACKSONVILLE FL 32256		<b>Aliases:</b>	none	

6			DEFENDANT	@6972293	CROOKS, JEFFREY
<b>Address:</b>	6708 DICKS AVENUE PHILADELPHIA PA 19142		<b>Aliases:</b>	none	
7			DEFENDANT	@6972294	CROOKS, MARY
<b>Address:</b>	66 DICKS AVENUE PHILADELPHIA PA 19142		<b>Aliases:</b>	none	
8			DEFENDANT	@6972295	GLEASON JR, THOMAS
<b>Address:</b>	66 SPRINGTON ROAD UPPER DARBY PA 19082		<b>Aliases:</b>	none	
9			DEFENDANT	@6972296	GLEASON, MARY
<b>Address:</b>	66 SPRINGTON ROAD UPPER DARBY PA 19082		<b>Aliases:</b>	none	
10		31-DEC-2011	TEAM LEADER	J280	MANFREDI, WILLIAM J
<b>Address:</b>	510 CITY HALL PHILADELPHIA PA 19107 (215)686-2606		<b>Aliases:</b>	none	
11			ATTORNEY FOR DEFENDANT	A84960	MANOS, PAULINE J
<b>Address:</b>	1515 ARCH STREET 14TH FLOOR		<b>Aliases:</b>	none	

			PHILADELPHIA PA 19102 (215)683-5420 (215)683-5398 - FAX		
12			ATTORNEY FOR DEFENDANT	A65301	WIENER, SUSAN J
<b>Address:</b>	LAW OFFICES OF JAMES L. BARLOW 900 E. 8TH AVENUE SUITE 301 KING OF PRUSSIA PA 19406 (610)382-8115 (610)382-8101 - FAX		<b>Aliases:</b>	none	
13	15		ADDITIONAL DEFENDANT	@7126853	BERNARD AUGUST, INDIV. AND T/A MARISA MANGO REAL ESTATE
<b>Address:</b>	5601 CHESTER AVENUE PHILADELPHIA PA 19143		<b>Aliases:</b>	none	
14			TEAM LEADER	J408	LACHMAN, MARLENE F
<b>Address:</b>	1413 CRIMINAL JUSTICE CENTER  1301 FILBERT STREET PHILADELPHIA PA 19107 (215)683-7136		<b>Aliases:</b>	none	

15			ATTORNEY FOR ADDITIONAL DFT	A34454	DEMPSEY, MICHAEL J
<b>Address:</b>	620 FREEDOM BUSINESS CENTER SUITE 300 KING OF PRUSSIA PA 19406 (610)354-8498 (215)575-0856 - FAX		<b>Aliases:</b>	none	
16			ATTORNEY FOR DEFENDANT	A41630	WERSHAW, LISA B
<b>Address:</b>	LAW OFFICE OF JEFFREY SALTZ PC TWO PENN CENTER PLAZA 1500 JFK BLVD SUITE 1930 PHILADELPHIA PA 19102 (215)523-5317 (215)568-2739 - FAX		<b>Aliases:</b>	none	
17	16		ATTORNEY FOR DEFENDANT	A29057	SALTZ, JEFFREY S
<b>Address:</b>	TWO PENN CENTER PLAZA 1500 JFK BLVD SUITE 1930 PHILADELPHIA PA 19102 (215)523-5317 (215)568-2739 - FAX		<b>Aliases:</b>	none	

18			DEFENDANT	@7175509	MITCHELL, TYRITA
<b>Address:</b>	7603 ELMWOOD AVENUE PHILADELPHIA PA 19153		<b>Aliases:</b>	none	
19	16		DEFENDANT	@7175517	FEDERAL DEPOSIT INSURANCE CORPORATION
<b>Address:</b>	200 EAST GAINES STREET SUITE 526 TALLAHASSEE FL 32399		<b>Aliases:</b>	none	

### Docket Entries

<input type="checkbox"/> <b>Check for Threaded Docket</b> <small>This feature will reduce the docket to motion related entries only.</small>				
Filing Date/Time	Docket Type	Filing Party	Disposition Amount	Approval/Entry Date
06-JUN-2011 08:50 AM	ACTIV - ACTIVE CASE			06-JUN-2011 09:40 AM
<b>Docket Entry:</b>	E-Filing Number: 1106006793			
06-JUN-2011 08:50 AM	CIVIL - COMMENCEMENT CIVIL ACTION JURY	ROSENFELD, LEE D		06-JUN-2011 09:40 AM
<b>Documents:</b>	<u>Final Cover</u>			
<b>Docket Entry:</b>	none.			
06-JUN-2011 08:50 AM	CMPLT - COMPLAINT FILED NOTICE GIVEN	ROSENFELD, LEE D		06-JUN-2011 09:40 AM
<b>Documents:</b>	<u>Joyce - Complaint to be filed 6.6.11.pdf</u>			

<b>Docket Entry:</b>	COMPLAINT WITH NOTICE TO DEFEND WITHIN TWENTY (20) DAYS AFTER SERVICE IN ACCORDANCE WITH RULE 1018.1 FILED.			
06-JUN-2011 08:50 AM	SSCG7 - SHERIFF'S SURCHARGE 7 DEFTS	ROSENFELD, LEE D		06-JUN-2011 09:40 AM
<b>Docket Entry:</b>	none.			
06-JUN-2011 08:50 AM	JURYT - JURY TRIAL PERFECTED	ROSENFELD, LEE D		06-JUN-2011 09:40 AM
<b>Docket Entry:</b>	12 JURORS REQUESTED.			
06-JUN-2011 08:50 AM	CLWCM - WAITING TO LIST CASE MGMT CONF	ROSENFELD, LEE D		06-JUN-2011 09:40 AM
<b>Docket Entry:</b>	none.			
16-JUN-2011 12:00 PM	ENAPP - ENTRY OF APPEARANCE FILED	MANOS, PAULINE J		16-JUN-2011 12:14 PM
<b>Documents:</b>	<a href="#">Entry and Demand - Frances Joyce.pdf</a>			
<b>Docket Entry:</b>	ENTRY OF APPEARANCE OF PAULINE J MANOS FILED. (FILED ON BEHALF OF CITY OF PHILADELPHIA, C/O LAW DEPARTMENT)			
16-JUN-2011 12:00 PM	JURYT - JURY TRIAL PERFECTED			16-JUN-2011 12:14 PM
<b>Docket Entry:</b>	12 JURORS REQUESTED.			
16-JUN-2011 12:00 PM	CTYSF - CITY CHARGE SUBSEQUENT FILINGS	MANOS, PAULINE J		16-JUN-2011 12:14 PM
<b>Docket Entry:</b>	none.			

16-JUN-2011 03:10 PM	AFDVT - AFFIDAVIT OF SERVICE FILED	ROSENFELD, LEE D		16-JUN-2011 03:12 PM
<b>Documents:</b>	<a href="#">Joyce - Aff of Serv for Mary Crooks.pdf</a> <a href="#">Joyce - Aff of Service - City of Phila 6.16.11.pdf</a> <a href="#">Joyce - Affi of Service - Jeffrey Crooks.pdf</a>			
<b>Docket Entry:</b>	AFFIDAVIT OF SERVICE OF PLAINTIFF'S COMPLAINT UPON MARY CROOKS, JEFFREY CROOKS AND CITY OF PHILADELPHIA, C/O LAW DEPARTMENT BY PERSONAL SERVICE ON 06/13/2011 FILED. (FILED ON BEHALF OF FRANCES JOYCE)			
23-JUN-2011 10:35 AM	CMREI - PRAECIPE TO REINSTATE CMPLT	ROSENFELD, LEE D		23-JUN-2011 10:35 AM
<b>Documents:</b>	<a href="#">Joyce - Praecipe to Reinstate.pdf</a>			
<b>Docket Entry:</b>	COMPLAINT WITH NOTICE TO DEFEND WITHIN TWENTY (20) DAYS AFTER SERVICE IN ACCORDANCE WITH RULE 1018.1 REINSTATED. (FILED ON BEHALF OF FRANCES JOYCE) ENTRY OF APPEARANCE FILED ON BEHALF OF FRANCES JOYCE.			
18-JUL-2011 05:17 PM	ANCOM - ANSWER TO COMPLAINT FILED	MANOS, PAULINE J		19-JUL-2011 09:18 AM
<b>Documents:</b>	<a href="#">answer-joyce case.pdf</a>			
<b>Docket Entry:</b>	ANSWER WITH NEW MATTER AND CROSSCLAIM TO PLAINTIFF'S COMPLAINT FILED. (FILED ON BEHALF OF CITY OF PHILADELPHIA, C/O LAW DEPARTMENT)			
18-JUL-2011 05:17 PM	JURYT - JURY TRIAL PERFECTED			19-JUL-2011 09:18 AM
<b>Docket Entry:</b>	12 JURORS REQUESTED.			
18-JUL-2011 05:17 PM	CTYSF - CITY CHARGE SUBSEQUENT FILINGS	MANOS, PAULINE J		19-JUL-2011 09:18 AM
<b>Docket Entry:</b>	none.			



20-JUL-2011 08:40 AM	CMREI - PRAECIPE TO REINSTATE CMPLT	ROSENFELD, LEE D		20-JUL-2011 08:44 AM
<b>Documents:</b>	<u>Joyce - Praecipe to Reinstate 7.22.11.pdf</u>			
<b>Docket Entry:</b>	COMPLAINT WITH NOTICE TO DEFEND WITHIN TWENTY (20) DAYS AFTER SERVICE IN ACCORDANCE WITH RULE 1018.1 REINSTATED. (FILED ON BEHALF OF FRANCES JOYCE)			
29-JUL-2011 07:02 AM	AFDVT - AFFIDAVIT OF SERVICE FILED	ROSENFELD, LEE D		29-JUL-2011 09:01 AM
<b>Documents:</b>	<u>Joyce - Return of Service for Mary Gleason.pdf</u> <u>Joyce - Return of Service for Thomas Gleason.pdf</u>			
<b>Docket Entry:</b>	AFFIDAVIT OF SERVICE OF PLAINTIFF'S COMPLAINT UPON THOMAS GLEASON AND MARY GLEASON BY PERSONAL SERVICE ON 07/21/2011 FILED. (FILED ON BEHALF OF FRANCES JOYCE)			
11-AUG-2011 01:28 PM	CMREI - PRAECIPE TO REINSTATE CMPLT	ROSENFELD, LEE D		11-AUG-2011 01:34 PM
<b>Documents:</b>	<u>Joyce Praecipe to Reinstate 8.11.11.pdf</u>			
<b>Docket Entry:</b>	COMPLAINT WITH NOTICE TO DEFEND WITHIN TWENTY (20) DAYS AFTER SERVICE IN ACCORDANCE WITH RULE 1018.1 REINSTATED. (FILED ON BEHALF OF FRANCES JOYCE)			
17-AUG-2011 02:04 PM	CLLCM - LISTED FOR CASE MGMT CONF			17-AUG-2011 02:04 PM
<b>Docket Entry:</b>	<i>none.</i>			
19-AUG-2011 12:32 AM	CLNGV - NOTICE GIVEN			19-AUG-2011 12:32 AM
<b>Docket Entry:</b>	<i>none.</i>			
31-AUG-2011 08:00 AM	CMREI - PRAECIPE TO REINSTATE	ROSENFELD, LEE D		31-AUG-2011 08:23 AM

	CMPLT			
<b>Documents:</b>	Joyce Reinstate Complaint 8.31.11.pdf			
<b>Docket Entry:</b>	COMPLAINT WITH NOTICE TO DEFEND WITHIN TWENTY (20) DAYS AFTER SERVICE IN ACCORDANCE WITH RULE 1018.1 REINSTATED. (FILED ON BEHALF OF FRANCES JOYCE)			
01-SEP-2011 01:19 PM	CLCPG - CONTINUANCE BY PLF GRANTED			01-SEP-2011 01:19 PM
<b>Docket Entry:</b>	none.			
01-SEP-2011 01:19 PM	CLLCM - LISTED FOR CASE MGMT CONF			01-SEP-2011 01:19 PM
<b>Docket Entry:</b>	none.			
03-SEP-2011 12:33 AM	CLNGV - NOTICE GIVEN			03-SEP-2011 12:33 AM
<b>Docket Entry:</b>	none.			
22-SEP-2011 02:56 PM	CMREI - PRAECIPE TO REINSTATE CMPLT	ROSENFELD, LEE D		22-SEP-2011 03:11 PM
<b>Documents:</b>	Joyce - Praeipce to Reinstate Complaint.pdf			
<b>Docket Entry:</b>	COMPLAINT WITH NOTICE TO DEFEND WITHIN TWENTY (20) DAYS AFTER SERVICE IN ACCORDANCE WITH RULE 1018.1 REINSTATED. (FILED ON BEHALF OF FRANCES JOYCE)			
12-OCT-2011 02:19 PM	CMREI - PRAECIPE TO REINSTATE CMPLT	ROSENFELD, LEE D		12-OCT-2011 02:20 PM
<b>Documents:</b>	Joyce - Praeipce to Reinstate Complaint 10.12.11.pdf			
<b>Docket Entry:</b>	COMPLAINT WITH NOTICE TO DEFEND WITHIN TWENTY (20) DAYS AFTER SERVICE IN ACCORDANCE WITH RULE 1018.1 REINSTATED. (FILED ON BEHALF OF FRANCES JOYCE)			

24-OCT-2011 11:21 AM	CLCCC - CASE MGMT CONFERENCE COMPLETED	PELLETREAU, CHARLES		24-OCT-2011 11:21 AM
<b>Docket Entry:</b>	<i>none.</i>			
24-OCT-2011 11:21 AM	CMOIS - CASE MANAGEMENT ORDER ISSUED			24-OCT-2011 11:21 AM
<b>Documents:</b>	<u>CMOIS_27.pdf</u>			
<b>Docket Entry:</b>	<p>CASE MANAGEMENT ORDER STANDARD TRACK - AND NOW, 24-OCT-2011, it is Ordered that: 1. The case management and time standards adopted for standard track cases shall be applicable to this case and are hereby incorporated into this Order. 2. All discovery on the above matter shall be completed not later than 04-SEP-2012. 3. Plaintiff shall identify and submit curriculum vitae and expert reports of all expert witnesses intended to testify at trial to all other parties not later than 04-SEP-2012. 4. Defendant and any additional defendants shall identify and submit curriculum vitae and expert reports of all expert witnesses intended to testify at trial not later than 01-OCT-2012. 5. All pre-trial motions shall be filed not later than 01-OCT-2012. 6. A settlement conference may be scheduled at any time after 01-OCT-2012. Prior to the settlement conference all counsel shall serve all opposing counsel and file a settlement memorandum containing the following: (a) A concise summary of the nature of the case if plaintiff or of the defense if defendant or additional defendant; (b) A statement by the plaintiff or all damages accumulated, including an itemization of injuries and all special damages claimed by categories and amount; (c) Defendant shall identify all applicable insurance carriers, together with applicable limits of liability. 7. A pre-trial conference will be scheduled any time after 03-DEC-2012. Fifteen days prior to pre-trial conference, all counsel shall serve all opposing counsel and file a pre-trial memorandum containing the following: (a) A concise summary of the nature of the case if plaintiff or the defense if defendant or additional defendant; (b) A list of all witnesses who may be called to testify at trial by name and address. Counsel should expect witnesses not listed to be precluded from testifying at trial; (c) A list of all exhibits the party intends to offer into evidence. All exhibits shall be pre-numbered and shall be exchanged among counsel prior to the conference. Counsel should expect any exhibit not listed to be precluded at trial; (d) Plaintiff shall list an itemization of injuries or damages sustained together with all special damages claimed by category and amount. This list shall include as appropriate, computations of all past lost earnings and future lost earning capacity or medical expenses together with any other</p>			

	unliquidated damages claimed; and (e) Defendant shall state in position regarding damages and shall identify all applicable insurance carriers, together with applicable limits of liability; (f) Each counsel shall provide an estimate of the anticipated length of trial. 8. It is expected that the case will be ready for trial 07-JAN-2013, and counsel should anticipate trial to begin expeditiously thereafter. 9. All counsel are under a continuing obligation and are hereby ordered to serve a copy of this order upon all unrepresented parties and upon all counsel entering an appearance subsequent to the entry of this order. ...BY THE COURT: WILLIAM MANFREDI, J.			
24-OCT-2011 11:21 AM	CLLSC - LISTED FOR SETTLEMENT CONF			24-OCT-2011 11:21 AM
<b>Docket Entry:</b>	<i>none.</i>			
24-OCT-2011 11:21 AM	CLLPT - LISTED FOR PRE-TRIAL CONF			24-OCT-2011 11:21 AM
<b>Docket Entry:</b>	<i>none.</i>			
24-OCT-2011 11:21 AM	CLLTR - LISTED FOR TRIAL			24-OCT-2011 11:21 AM
<b>Docket Entry:</b>	<i>none.</i>			
24-OCT-2011 11:21 AM	ZR236 - NOTICE GIVEN UNDER RULE 236			24-OCT-2011 02:16 PM
<b>Docket Entry:</b>	NOTICE GIVEN ON 24-OCT-2011 OF CASE MANAGEMENT ORDER ISSUED ENTERED ON 24-OCT-2011.			
31-OCT-2011 02:37 PM	ENAPP - ENTRY OF APPEARANCE FILED	WIENER, SUSAN J		31-OCT-2011 02:56 PM
<b>Documents:</b>	<a href="#">joyce.eoa.pdf</a>			
<b>Docket Entry:</b>	ENTRY OF APPEARANCE OF SUSAN J WIENER FILED. (FILED ON BEHALF OF RICHARD DEVASTHEY)			

16-NOV-2011 10:55 AM	AFDVT - AFFIDAVIT OF SERVICE FILED	ROSENFELD, LEE D		16-NOV-2011 12:06 PM
<b>Documents:</b>	<a href="#">Joyce - Aff of Serv for Mr Devastey.pdf</a>			
<b>Docket Entry:</b>	AFFIDAVIT OF SERVICE OF PLAINTIFF'S COMPLAINT UPON RICHARD DEVASTEY BY CERTIFIED MAIL, FIRST CLASS REGULAR MAIL ON 10/29/2011 FILED. (FILED ON BEHALF OF FRANCES JOYCE)			
14-DEC-2011 09:30 AM	ANCOM - ANSWER TO COMPLAINT FILED	WIENER, SUSAN J		14-DEC-2011 09:32 AM
<b>Documents:</b>	<a href="#">joyce.anm.pdf</a>			
<b>Docket Entry:</b>	ANSWER WITH NEW MATTER AND CROSSCLAIM TO PLAINTIFF'S COMPLAINT FILED. (FILED ON BEHALF OF RICHARD DEVASTEY)			
15-DEC-2011 11:36 AM	RPNMT - REPLY TO NEW MATTER	ROSENFELD, LEE D		15-DEC-2011 11:37 AM
<b>Documents:</b>	<a href="#">Joyce - Plts reply to Deft Devasteys New Matter.pdf</a>			
<b>Docket Entry:</b>	REPLY TO NEW MATTER OF RICHARD DEVASTEY FILED. (FILED ON BEHALF OF FRANCES JOYCE)			
21-DEC-2011 08:33 AM	CMPJC - JOINDER COMPLAINT FILED	WIENER, SUSAN J		21-DEC-2011 10:06 AM
<b>Documents:</b>	<a href="#">joyce.joinder.pdf</a>			
<b>Docket Entry:</b>	JOINDER COMPLAINT AGAINST BERNARD AUGUST, INDIV. AND T/A MARISA MANGO REAL ESTATE WITH NOTICE TO DEFEND WITHIN TWENTY (20) DAYS AFTER SERVICE IN ACCORDANCE WITH RULE 1018.1 FILED. (FILED ON BEHALF OF RICHARD DEVASTEY)			
08-JAN-2012 09:23 PM	AFDVT - AFFIDAVIT OF SERVICE FILED			10-JAN-2012 10:19 AM
<b>Documents:</b>	<a href="#">Affidavit of Service</a>			
<b>Docket Entry:</b>	AFFIDAVIT OF SERVICE OF JOINDER COMPLAINT UPON BERNARD AUGUST, INDIV. AND T/A MARISA MANGO REAL ESTATE BY PERSONAL SERVICE ON 12/30/2011 FILED.			

16-JAN-2012 09:56 AM	ENAPP - ENTRY OF APPEARANCE FILED	DEMPSEY, MICHAEL J		17-JAN-2012 11:23 AM
<b>Documents:</b>	JOYCE EOA MJD AND CTF SERVICE.pdf JOYCE JURY TRIAL DEMAND.pdf			
<b>Docket Entry:</b>	ENTRY OF APPEARANCE OF MICHAEL J DEMPSEY FILED. (FILED ON BEHALF OF BERNARD AUGUST, INDIV. AND T/A MARISA MANGO REAL ESTATE)			
16-JAN-2012 09:56 AM	JURYT - JURY TRIAL PERFECTED			17-JAN-2012 11:23 AM
<b>Docket Entry:</b>	12 JURORS REQUESTED.			
18-JAN-2012 02:31 PM	DSCIM - DISCOVERY HEARING REQST FILED	WIENER, SUSAN J		18-JAN-2012 02:36 PM
<b>Documents:</b>	Joyce.MtnCompel.pdf			
<b>Docket Entry:</b>	DISCOVERY HEARING REQUEST FILED IN RE: MOTION TO COMPEL ANSWERS AND PRODUCTION OF DOCUMENTS. HEARING SCHEDULED FOR: FEBRUARY 07, 2012 AT 09:00 IN ROOM 682 CITY HALL. (FILED ON BEHALF OF RICHARD DEVASTEY)			
26-JAN-2012 10:10 AM	ANCOM - ANSWER TO COMPLAINT FILED	DEMPSEY, MICHAEL J		26-JAN-2012 10:16 AM
<b>Documents:</b>	JOYCE ANSWER OF AUGUST TO JOINDER COMPLAINT.pdf			
<b>Docket Entry:</b>	ANSWER WITH NEW MATTER TO RICHARD DEVASTEY JOINDER COMPLAINT FILED. (FILED ON BEHALF OF BERNARD AUGUST, INDIV. AND T/A MARISA MANGO REAL ESTATE)			
31-JAN-2012 11:07 AM	ENAPP - ENTRY OF APPEARANCE FILED	WERSHAW, LISA B		31-JAN-2012 12:19 PM
<b>Documents:</b>	Entry of Appearance.pdf Certificate of Service.pdf			
<b>Docket Entry:</b>	ENTRY OF APPEARANCE OF LISA B WERSHAW, LISA B WERSHAW AND JEFFREY S SALTZ FILED. (FILED ON BEHALF OF PROGRESS BANK OF FLORIDA C/O FDIC AS RECEIVER PROGRESS BANK)			

31-JAN-2012 11:07 AM	JURYT - JURY TRIAL PERFECTED	WERSHAW, LISA B		31-JAN-2012 12:19 PM
<b>Docket Entry:</b>	12 JURORS REQUESTED.			
02-FEB-2012 11:52 AM	MTMIS - MISCELLANEOUS MOTION	WERSHAW, LISA B		06-FEB-2012 04:56 PM
<b>Documents:</b>	<a href="#">Motion.pdf</a> <a href="#">Exhibit A.pdf</a> <a href="#">Exhibit B.pdf</a> <a href="#">Order.pdf</a> <a href="#">Certificate of Service.pdf</a> <a href="#">Memorandum of Law.pdf</a> <a href="#">Motion CoverSheet Form</a>			
<b>Docket Entry:</b>	82-12020682 RESPONSE DATE 02/27/2012. MOTION OF DEFENDANT PROGRESS BANK OF FLORIDA, C/O FDIC AS RECEIVER, FOR PARTIAL REFUND OF FILING FEE (FILED ON BEHALF OF PROGRESS BANK OF FLORIDA C/O FDIC AS RECEIVER PROGRESS BANK)			
03-FEB-2012 03:36 PM	STPLR - STIPULATION FILED	DEMPSEY, MICHAEL J		06-FEB-2012 07:41 AM
<b>Documents:</b>	<a href="#">JOYCE STIP TO AMEND CAPTION OF JOINDER COMPLAINT DISMISS PARAGRAPH 8(d) OF JOINDER COMPLAINT AND AMEND PARAGRAPH 9 OF JOINDER COMPLAINT AND AMEND WHEREFORE CLAUSE.PDF</a>			
<b>Docket Entry:</b>	04-12020504 STIPULATION TO AMEND CAPTION DISMISS PARAGRAPH 8(D) AND AMEND PARAGRAPH 9 OF JOINDER COMPLAINT AND AMEND WHEREFORE FILED. AWAITING JUDICIAL APPROVAL (FILED ON BEHALF OF BERNARD AUGUST, INDIV. AND T/A MARISA MANGO REAL ESTATE)			
07-FEB-2012 02:52 PM	ORDER - ORDER ENTERED/236 NOTICE GIVEN	TERESHKO, ALLAN L		07-FEB-2012 12:00 AM
<b>Documents:</b>	<a href="#">ORDER 46.pdf</a>			
<b>Docket</b>	UPON CONSIDERATION OF DEFENDANT RICHARD DEVASTHEY'S MOTION TO COMPEL DISCOVERY TO PLAINTIFF, IT IS HEREBY ORDERED AND DECREED THAT SAID MOTION IS GRANTED AND PLAINTIFF IS HEREBY DIRECTED TO PRODUCE VERIFIED AND COMPLETE ANSWERS TO DEFENDANT'S INTERROGATORIES AND			



<b>Entry:</b>	REQUEST FOR PRODUCTION OF DOCUMENTS WITHIN TWENTY FIVE (25) DAYS OF THE DATE OF THIS ORDER, OR RISK SANCTIONS UPON FURTHER APPLICATION TO THE COURT, BY AGREEMENT. SIGNED BY JUDGE ALLAN L. TERESHKO, FEBRUARY 7, 2012			
07-FEB-2012 02:52 PM	ZR236 - NOTICE GIVEN UNDER RULE 236			07-FEB-2012 04:03 PM
<b>Docket Entry:</b>	NOTICE GIVEN ON 07-FEB-2012 OF ORDER ENTERED/236 NOTICE GIVEN ENTERED ON 07-FEB-2012.			
08-FEB-2012 04:20 PM	RPCCL - REPLY TO CROSSCLAIM	WIENER, SUSAN J		09-FEB-2012 09:03 AM
<b>Documents:</b>	<a href="#">joyce.reply.pdf</a>			
<b>Docket Entry:</b>	REPLY TO CROSSCLAIM OF BERNARD AUGUST, INDIV. AND T/A MARISA MANGO REAL ESTATE FILED. (FILED ON BEHALF OF RICHARD DEVASTEY)			
09-FEB-2012 11:00 AM	PRSBP - PRAECIPE TO SUBSTITUTE PARTY	SALTZ, JEFFREY S		09-FEB-2012 11:05 AM
<b>Documents:</b>	<a href="#">Notice of Substitution.pdf</a> <a href="#">Exhibit A.pdf</a> <a href="#">Exhibit B.pdf</a> <a href="#">Exhibit C.pdf</a>			
<b>Docket Entry:</b>	REPLY TO CROSSCLAIM OF BERNARD AUGUST, INDIV. AND T/A MARISA MANGO REAL ESTATE FILED. (FILED ON BEHALF OF RICHARD DEVASTEY)			
09-FEB-2012 04:34 PM	STASN - STIPULATION ASSIGNED			09-FEB-2012 04:34 PM
<b>Docket Entry:</b>	04-12020504 STIPULATION FILED ASSIGNED TO JUDGE: LACHMAN, MARLENE F. ON DATE: FEBRUARY 09, 2012			



**CITY OF PHILADELPHIA LAW DEPARTMENT**

**PAULINE J MANOS  
DEPUTY CITY SOLICITOR  
ATTORNEY I. D. 84960  
1515 ARCH STREET, 14<sup>th</sup> Floor  
PHILADELPHIA, PA 19102  
(215) 683-5393**



<b>FRANCES JOYCE</b>	<b>:</b>	<b>COURT OF COMMON PLEAS</b>
	<b>:</b>	
<b>VS.</b>	<b>:</b>	<b>JUNE TERM 2011</b>
	<b>:</b>	
<b>CITY OF PHILADELPHIA</b>	<b>:</b>	<b>No. 31</b>

**DEMAND FOR JURY TRIAL  
12 PERSON JURY AND  
ENTRY OF APPEARANCE**

**TO THE PROTHONOTARY:**

**Kindly enter my appearance for defendant City of Philadelphia in the above matter. Defendant City of Philadelphia hereby demands trial by a 12 person jury.**

**SHELLEY R. SMITH  
CITY SOLICITOR**

**DONNA J. MOUZAYCK  
FIRST DEPUTY CITY SOLICITOR**

**NORMAN G. PRAJZNER  
CHIEF DEPUTY CITY SOLICITOR**

**ALAN C. OSTROW  
DIV. DEPUTY CITY SOLICITOR**

**BY: /s / Pauline J. Manos  
PAULINE J MANOS  
DEPUTY CITY SOLICITOR**

215-735-3999

## COURT HOUSE LEGAL SERVICES, INC.

856-428-4700

## RETURN OF SERVICE-PHILADELPHIA CO.

COURT TERM AND NUMBER

JUNE 2011

Filed and Attested By 0031

PLAINTIFF(S)

FRANCES JOYCE

DEFENDANT(S)

JEFFREY CROOKS

☐ SUMMONS☒ COMPLAINT☐ WRIT OF REVIVAL☐ SUBPOENA☐ OTHER \_\_\_\_\_

SERVE AT:

6708 DICKS AVE, PHILADELPHIA, P.A. 19142

TYPE OF ACTION:

CIVIL

SPECIAL INSTRUCTIONS:

## SERVICE

Served and made known to Jeffrey Crooks, Defendant(s)  
 on the 9<sup>th</sup> day of JUNE, 20 11, at 6:00 o'clock P M., at \_\_\_\_\_  
above address County of Philadelphia, Commonwealth of PA, in the manner described below:

- ☒ Defendant(s) personally served.  
☐ Adult family member with whom said Defendant(s) reside. Name and relationship: \_\_\_\_\_  
☐ Adult in charge of Defendant(s) residence who refused to give name or relationship.  
☐ Manager/Clerk of place of lodging in which Defendant(s) reside(s).  
☐ Agent or person in charge of Defendant(s) office or usual place of business.  
☐ Officer of said Defendant Company. Name and title \_\_\_\_\_  
☐ Municipality. Name and title \_\_\_\_\_  
☐ Other \_\_\_\_\_

By \_\_\_\_\_

Date 6/13/11

## NON SERVICE

On the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, at \_\_\_\_\_ o'clock, \_\_\_\_\_ M., Defendant(s) not found because:  
☐ Moved ☐ Unknown ☐ Vacant ☐ Bad Address ☐ No answer ☐ Other \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

## ATTORNEY INFORMATION

Name LEE D. ROSENFELD, ESQ.Firm MESSA & ASSOCIATES, P.C.Address 123 SOUTH 22<sup>ND</sup> STREET  
PHILADELPHIA, P.A. 19103Phone 215-568-3500 ID# 76081

## NOTARY

On the 13<sup>th</sup> day of JUNE, 20 11Daniel Guida personally came

before me and attested to the above.

Stacey Collins

Stacey Ann Collins

Notary Public

New Jersey

My Commission Expires 9-3-2014

Case ID: 110600031

215-735-3999

## COURT HOUSE LEGAL SERVICES, INC.

856-428-4700

## RETURN OF SERVICE-PHILADELPHIA CO.

COURT TERM AND NUMBER

JUNE 2011

Filed and attested by 0031

PLAINTIFF(S)

FRANCES JOYCE

DEFENDANT(S)

CITY OF PHILADELPHIA

☐ SUMMONS☒ COMPLAINT☐ WRIT OF REVIVAL☐ SUBPOENA☐ OTHER \_\_\_\_\_SERVE AT:  
1515 ARCH STREET, 14<sup>TH</sup> FL., PHILADLEPHIA, P.A. 19102TYPE OF ACTION:  
CIVIL

SPECIAL INSTRUCTIONS:

## SERVICE

Served and made known to \_\_\_\_\_, Defendant(s)  
on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., at \_\_\_\_\_  
County of Philadelphia, Commonwealth of PA, in the manner described below:

- ☐ Defendant(s) personally served.
- ☐ Adult family member with whom said Defendant(s) reside. Name and relationship: \_\_\_\_\_
- ☐ Adult in charge of Defendant(s) residence who refused to give name or relationship.
- ☐ Manager/Clerk of place of lodging in which Defendant(s) reside(s).
- ☐ Agent or person in charge of Defendant(s) office or usual place of business.
- ☐ Officer of said Defendant Company. Name and title \_\_\_\_\_
- ☐ Municipality. Name and title \_\_\_\_\_
- ☐ Other \_\_\_\_\_

By

*Joshua Baum*

Date 06/13/11

## NON SERVICE

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock, \_\_\_\_\_ M., Defendant(s) not found because:  
☐ Moved ☐ Unknown ☐ Vacant ☐ Bad Address ☐ No answer ☐ Other \_\_\_\_\_

By

Date \_\_\_\_\_

## ATTORNEY INFORMATION

Name LEE D. ROSENFELD, ESQ.

Firm MESSA & ASSOCIATES, P.C.

Address 123 SOUTH 22<sup>ND</sup> STREET  
PHILADELPHIA, P.A. 19103

Phone 215-568-3500 ID# 76081

## NOTARY

On the 13<sup>th</sup> day of June 2011Joshua Baum personally came

before me and attested to the above.

*Stacey Collins*

Stacey Ann Collins  
Notary Public  
New Jersey

My Commission Expires 9-3-2014

Case ID: 110600031

215-735-3999

## COURT HOUSE LEGAL SERVICES, INC.

856-428-4700

## RETURN OF SERVICE-PHILADELPHIA CO.

COURT TERM AND NUMBER

JUNE 2011

Filed and Attested 0031

PLAINTIFF(S)

FRANCES JOYCE

DEFENDANT(S)

MARY CROOKS

☐ SUMMONS☒ COMPLAINT☐ WRIT OF REVIVAL☐ SUBPOENA☐ OTHER \_\_\_\_\_SERVE AT:  
6708 DICKS AVE, PHILADELPHIA, P.A. 19142TYPE OF ACTION:  
CIVIL

SPECIAL INSTRUCTIONS:

## SERVICE

Served and made known to Mary Crooks, Defendant(s)  
on the 9<sup>th</sup> day of JUNE, 20 11, at 6:00 o'clock P M., at above address  
County of Philadelphia, Commonwealth of PA, in the manner described below:

- ☒ Defendant(s) personally served.
- ☐ Adult family member with whom said Defendant(s) reside. Name and relationship: \_\_\_\_\_
- ☐ Adult in charge of Defendant(s) residence who refused to give name or relationship.
- ☐ Manager/Clerk of place of lodging in which Defendant(s) reside(s).
- ☐ Agent or person in charge of Defendant(s) office or usual place of business.
- ☐ Officer of said Defendant Company. Name and title \_\_\_\_\_
- ☐ Municipality. Name and title \_\_\_\_\_
- ☐ Other \_\_\_\_\_

By [Signature]Date 6/13/11

## NON SERVICE

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock, \_\_\_\_\_ M., Defendant(s) not found because:  
☐ Moved ☐ Unknown ☐ Vacant ☐ Bad Address ☐ No answer ☐ Other \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

## ATTORNEY INFORMATION

Name LEE D. ROSENFELD, ESQ.Firm MESSA & ASSOCIATES, P.C.Address 123 SOUTH 22<sup>ND</sup> STREET  
PHILADELPHIA, P.A. 19103Phone 215-568-3500 ID# 76081

## NOTARY

On the 13<sup>th</sup> day of JUNE 20 11Daniel Guida personally came

before me and attested to the above.

Stacey CollinsStacey Ann Collins  
Notary Public  
New Jersey

My Commission Expires 9-3-2014

Case ID: 110600031

MESSA & ASSOCIATES, P.C.  
By: Joseph L. Messa, Jr., Esquire  
Lee D. Rosenfeld, Esquire  
Attorney I.D. No.: 53645 / 76081  
123 South 22<sup>nd</sup> Street  
Philadelphia, Pa. 19103  
(215) 568-3500 / Fax: (215) 568-3501

This is a major case.

Jury Trial Demanded

Attorneys for Plaintiff



FRANCES JOYCE  
Plaintiff

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

v.

June Term, 2011

RICHARD DEVASTEY  
ET AL

No: 000031

Defendants

**PRAECIPE TO REINSTATE COMPLAINT**

**TO THE PROTHONOTARY:**

Kindly reinstate the Complaint in the above-captioned matter.

MESSA & ASSOCIATES, P.C.

/s/ Lee D. Rosenfeld

By: \_\_\_\_\_  
Lee D. Rosenfeld, Esquire  
Attorney for Plaintiff

Dated: June 23, 2011

**MESSA & ASSOCIATES, P.C.**  
**By: Joseph L. Messa, Jr., Esquire**  
**Lee D. Rosenfeld, Esquire**  
**Attorney I.D. No.: 53645 / 76081**  
**123 South 22<sup>nd</sup> Street**  
**Philadelphia, Pa. 19103**  
**(215) 568-3500 / Fax: (215) 568-3501**

**This is a major case.**

**Jury Trial Demanded**



**Attorneys for Plaintiff**

**FRANCES JOYCE**  
**Plaintiff**

**COURT OF COMMON PLEAS**  
**PHILADELPHIA COUNTY**

**v.**

**June Term, 2011**

**No: 000031**

**RICHARD DEVASTEY**  
**5601 Chester Avenue**  
**Philadelphia, PA 19143**  
**and**  
**CITY OF PHILADELPHIA**  
**C/O LAW DEPARTMENT**  
**14<sup>TH</sup> Floor**  
**1515 Arch Street**  
**Philadelphia, Pennsylvania 19102**  
**and**  
**PROGRESS BANK OF FLORIDA**  
**c/o FDIC AS Receiver for Progress**  
**Bank of Florida**  
**7777 Baymeadows Way West**  
**Jacksonville, FL 32256**  
**and**  
**JEFFREY CROOKS**  
**6708 Dicks Avenue**  
**Philadelphia, PA 19142**  
**and**  
**MARY CROOKS**  
**6708 Dicks Avenue**  
**Philadelphia, PA 19142**  
**and**  
**THOMAS GLEASON, JR.**  
**66 Springton Road**  
**Upper Darby, PA 19082**  
**and**  
**MARY GLEASON**  
**66 Springton Road**  
**Upper Darby, PA 19082**  
**Defendants**

**"NOTICE"**

"You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP."**

Philadelphia Bar Association  
Lawyer Referral  
and Information Service  
One Reading Center  
Philadelphia, PA 19107  
(215) 238-6333  
TTY (215) 451-6197

**"AVISO"**

"Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

**"LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL."**

Asociación de Licenciados  
de Filadelfia  
Servicio de Referencia e  
Información Legal  
One Reading Center  
Philadelphia, PA 19107  
(215) 238-6333  
TTY (215) 451-6197

**MESSA & ASSOCIATES, P.C.**

By: Joseph L. Messa, Jr., Esquire

Lee D. Rosenfeld, Esquire

Attorney I.D. Nos.: 53645 / 76081

123 South 22<sup>nd</sup> Street

Philadelphia, Pennsylvania 19103

(215) 568-3500 / Fax: (215) 568-3501

**This is a Major Case.****Jury Trial Demanded.****Attorneys for Plaintiff**

FRANCIS JOYCE

6650 Dicks Avenue

Philadelphia, PA 19142

Plaintiff

v.

RICHARD DEVASTEY

5601 Chester Avenue

Philadelphia, PA 19143

and

PROGRESS BANK OF FLORIDA

C/O FDIC as RECEIVER for PROGRESS

BANK OF FLORIDA

7777 Baymeadows Way West

Jacksonville, FL 32256

and

CITY OF PHILADELPHIA

Law Department - 14<sup>th</sup> Floor

1515 Arch Street

Philadelphia, PA 19102

and

JEFFREY CROOKS

6708 Dicks Avenue

Philadelphia, PA 19142

and

MARY CROOKS

6708 Dicks Avenue

Philadelphia, PA 19142

and

THOMAS GLEASON, JR

66 Springton Road

Upper Darby, PA 19082

and

MARY GLEASON

66 Springton Road

Upper Darby, PA 19082

PHILADELPHIA COUNTY  
COURT OF COMMON PLEAS

June Term, 2011

No. 000031



Defendants :

---

**CIVIL ACTION - COMPLAINT**

**MESSA & ASSOCIATES, P.C.**

By: Joseph L. Messa, Jr., Esquire

Lee D. Rosenfeld, Esquire

Attorney I.D. Nos.: 53645 / 76081

123 South 22<sup>nd</sup> Street

Philadelphia, Pennsylvania 19103

(215) 568-3500 / Fax: (215) 568-3501

**This is a Major Case.**

**Jury Trial Demanded.**

**Attorneys for Plaintiff**

FRANCIS JOYCE

6650 Dicks Avenue

Philadelphia, PA 19142

Plaintiff

v.

RICHARD DEVASTEY

5601 Chester Avenue

Philadelphia, PA 19143

and

PROGRESS BANK OF FLORIDA

C/O FDIC as RECEIVER for PROGRESS

BANK OF FLORIDA

7777 Baymeadows Way West

Jacksonville, FL 32256

and

CITY OF PHILADELPHIA

Law Department - 14<sup>th</sup> Floor

1515 Arch Street

Philadelphia, PA 19102

and

JEFFREY CROOKS

6708 Dicks Avenue

Philadelphia, PA 19142

and

MARY CROOKS

6708 Dicks Avenue

Philadelphia, PA 19142

and

THOMAS GLEASON, JR

66 Springton Road

Upper Darby, PA 19082

and

MARY GLEASON

66 Springton Road

Upper Darby, PA 19082

PHILADELPHIA COUNTY  
COURT OF COMMON PLEAS

June Term, 2011

No. 000031

Defendants :

---

**CIVIL ACTION - COMPLAINT**

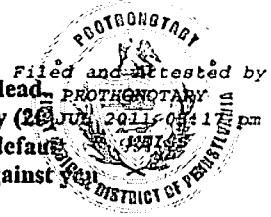
1. Plaintiff Francis Joyce is an adult individual residing at the above captioned address.
2. Defendant Richard Devastey is an adult individual residing at the above captioned address.
3. Defendant Progress Bank of Florida (hereafter "Progress Bank") is a corporation organized and existing under the laws of the State of Florida which regularly conducts business at the above captioned address.
4. Defendant, City of Philadelphia, is a municipal corporation organized as a City of the First Class under the Act of February 2, 1954, P.L., Sec 1; 53 P.S., 16251, as amended, which maintains an office at the above captioned address.
5. Defendant Jeffrey Crooks is an adult individual residing at the above captioned address.
6. Defendant Mary Crooks is an adult individual residing at the above captioned address.
7. Defendant Thomas Gleason, Jr. is an adult individual residing at the above captioned address.
8. Defendant Mary Gleason is an adult individual residing at the above captioned address.
9. At all times relevant hereto, Defendants acted or failed to act by and through their authorized agents, servants, workmen and/or employees who were then and there acting in the

I hereby certify that I have served  
a copy of this document upon  
all other parties by:

  X   E-FILE

To the herein Parties:

You are hereby notified to plead  
to the enclosed within twenty (20)  
days of service thereof or a default  
judgment may be entered against you.



/s/ Pauline Manos

Pauline Manos, Esquire  
Attorney for Defendant,  
City of Philadelphia

**City of Philadelphia Law Department**

**Pauline Manos**

**Deputy City Solicitor**

**Attorney I.D. No. 84960**

**14<sup>th</sup> Floor**

**One Parkway**

**1515 Arch Street**

**Philadelphia, PA 19102-1595**

**(215) 683-5420**

**(215) 683-5398**

**FRANCES JOYCE**

:

**COURT OF COMMON PLEAS**

:

:

**PHILADELPHIA COUNTY**

:

**VS.**

:

:

**RICHARD DEVASTEY**

:

**JUNE TERM 2011**

**AND**

:

**PROGRESS BANK OF FLORIDA**

:

**C/O FDIC AS RECEIVER PROGRESS**

:

**NO. 0031**

**BANK OF FLORIDA**

:

**AND**

:

**JEFFREY CROOKS**

:

**AND**

:

**MARY CROOKS**

:

**AND**

:

**THOMAS GLEASON, JR.**

:

**AND**

:

**MARY GLEASON**

:

**AND**

:

**CITY OF PHILADELPHIA**

:

**DEFENDANT, CITY OF PHILADELPHIA'S ANSWER TO  
PLAINTIFF'S COMPLAINT WITH NEW  
MATTER AND CROSSCLAIM AGAINST DEFENDANTS**

Defendant, City of Philadelphia, by its undersigned counsel, answers Plaintiff's Complaint in Civil Action as follows:

1. Denied. After reasonable investigation, the City of Philadelphia is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 1 and therefore, the City denies the allegations. Moreover, the allegations contained in paragraph 1 are conclusions of law to which the Pennsylvania Rules of Civil Procedure require no responsive pleadings and are therefore denied.

2-3. The averments contained in paragraph 2-3 of Plaintiff's Civil Action Complaint are addressed to defendants other than the answering defendant herein. The defendant, City of Philadelphia, is therefore advised that no further answer is required to the averments contained therein.

4. Admitted

5-8. The averments contained in paragraph 5-8 of Plaintiff's Civil Action Complaint are addressed to defendants other than the answering defendant herein. The defendant, City of Philadelphia, is therefore advised that no further answer is required to the averments contained therein.

9. Denied. All averments of agency are denied. The plaintiff has not indicated the identity of any person alleged to have been an agent, servant, or employee of the City of Philadelphia, and therefore, the averments must be denied. At no time did any agent, workman, servant, or employee of the City of Philadelphia cause any injury or damage to plaintiff.

10-11. The averments contained in paragraph 10-11 of Plaintiff's Civil Action Complaint are addressed to defendants other than the answering defendant herein. The defendant, City of Philadelphia, is therefore advised that no further answer is required to the averments contained

therein. Moreover, should any of the averments of paragraph 10-11 be deemed directed at Defendant, City of Philadelphia, said averment is denied in that after reasonable investigation, the City of Philadelphia is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 10-11, and therefore, the City of Philadelphia denies the allegations. Moreover, the allegations contained in paragraph 10-11 are conclusions of law to which the Pennsylvania Rules of Civil Procedure require no responsive pleadings and are therefore denied.

12. Denied. It is denied that the City of Philadelphia, its agents, servants, or employees, owned, controlled, possessed, maintained, or had under its care, responsibility, or supervision the situs referred to in the Complaint. On the contrary, it is averred that said situs is owned, possessed, or controlled by the abutting property owner and/or tenant, who is primarily responsible for maintaining said situs in a reasonably safe condition.

13. The averments contained in paragraph 13 of Plaintiff's Civil Action Complaint are addressed to defendants other than the answering defendant herein. The defendant, City of Philadelphia, is therefore advised that no further answer is required to the averments contained therein.

14. Denied. After reasonable investigation, the City of Philadelphia is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 14 and therefore, the City denies the allegations. Moreover, the allegations contained in paragraph 14 are conclusions of law to which the Pennsylvania Rules of Civil Procedure require no responsive pleadings and are therefore denied.

15. Denied. After reasonable investigation, the City of Philadelphia is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 15

and therefore, the City denies the allegations. Moreover, the allegations contained in paragraph 15 are conclusions of law to which the Pennsylvania Rules of Civil Procedure require no responsive pleadings and are therefore denied.

**COUNT I**

15. The defendant, City of Philadelphia, incorporates by reference its answers to paragraphs 1 through 15, inclusive, as fully as though the same were here set forth at length.

16-24. The averments contained in paragraph 16-24 of Plaintiff's Civil Action Complaint are addressed to defendants other than the answering defendant herein. The defendant, City of Philadelphia, is therefore advised that no further answer is required to the averments contained therein. Moreover, should any of the averments of paragraph 16-24 be deemed directed at Defendant, City of Philadelphia, said averment is denied in that after reasonable investigation, the City of Philadelphia is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 16-24 and therefore, the City of Philadelphia denies the allegations. Moreover, the allegations contained in paragraph 16-24 are conclusions of law to which the Pennsylvania Rules of Civil Procedure require no responsive pleadings and are therefore denied.

**WHEREFORE**, the defendant, City of Philadelphia, denies that it is liable on the cause of action declared upon.

**COUNT II**

The defendant, City of Philadelphia, incorporates by reference its answers to paragraphs 1 through 24, inclusive, as fully as though the same were here set forth at length.

25-33. (sic) The averments contained in paragraph 25-33 of Plaintiff's Civil Action Complaint are addressed to defendants other than the answering defendant herein. The defendant, City of Philadelphia, is therefore advised that no further answer is required to the averments contained therein. Moreover, should any of the averments of paragraph 25-33 be deemed directed at Defendant, City of Philadelphia, said averment is denied in that after reasonable investigation, the City of Philadelphia is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 25-33, and therefore, the City of Philadelphia denies the allegations. Moreover, the allegations contained in paragraph 25-33 are conclusions of law to which the Pennsylvania Rules of Civil Procedure require no responsive pleadings and are therefore denied.

**WHEREFORE**, the defendant, City of Philadelphia, denies that it is liable on the cause of action declared upon.

**COUNT III**

The defendant, City of Philadelphia, incorporates by reference its answers to paragraphs 1 through 33, inclusive, as fully as though the same were here set forth at length.

34. Denied. It is denied that the City of Philadelphia, its agents, servants, or employees, owned, controlled, possessed, maintained, or had under its care, responsibility, or supervision the situs referred to in the Complaint. On the contrary, it is averred that said situs is owned, possessed, or controlled by the abutting property owner and/or tenant, who is primarily responsible for maintaining said situs in a reasonably safe condition. Denied. The City of



Philadelphia specifically denies that it or any of its agents, servants, or employees, had notice of the existence of the alleged dangerous or hazardous condition as alleged in Plaintiff's Complaint.

35. Denied. It is denied that the City of Philadelphia, its agents, servants, or employees, owned, controlled, possessed, maintained, or had under its care, responsibility, or supervision the situs referred to in the Complaint. On the contrary, it is averred that said situs is owned, possessed, or controlled by the abutting property owner and/or tenant, who is primarily responsible for maintaining said situs in a reasonably safe condition.

36. Denied. The City of Philadelphia specifically denies that it or any of its agents, servants, or employees, had notice of the existence of the alleged dangerous or hazardous condition as alleged in Plaintiff's Complaint.

37. (sic) Denied. It is denied that the City of Philadelphia, its agents, servants, or employees, owned, controlled, possessed, maintained, or had under its care, responsibility, or supervision the situs referred to in the Complaint. On the contrary, it is averred that said situs is owned, possessed, or controlled by the abutting property owner and/or tenant, who is primarily responsible for maintaining said situs in a reasonably safe condition.

38-42. Denied. After reasonable investigation, the City of Philadelphia is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 38-42 and therefore, the City denies the allegations. Moreover, the allegations contained in paragraph 38-42 are conclusions of law to which the Pennsylvania Rules of Civil Procedure require no responsive pleadings and are therefore denied.

**WHEREFORE**, the defendant, City of Philadelphia, denies that it is liable on the cause of action declared upon.

**COUNT IV**

The defendant, City of Philadelphia, incorporates by reference its answers to paragraphs 1 through 42, inclusive, as fully as though the same were here set forth at length.

43-50. The averments contained in paragraph 43-50 of Plaintiff's Civil Action Complaint are addressed to defendants other than the answering defendant herein. The defendant, City of Philadelphia, is therefore advised that no further answer is required to the averments contained therein. Moreover, should any of the averments of paragraph 43-50 be deemed directed at Defendant, City of Philadelphia, said averment is denied in that after reasonable investigation, the City of Philadelphia is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 43-50 and therefore, the City of Philadelphia denies the allegations. Moreover, the allegations contained in paragraph 43-50 are conclusions of law to which the Pennsylvania Rules of Civil Procedure require no responsive pleadings and are therefore denied.

**WHEREFORE**, the defendant, City of Philadelphia, denies that it is liable on the cause of action declared upon.

**NEW MATTER DIRECTED TO PLAINTIFF VS. RICHARD DEVASTHEY, PROGRESS  
BANK OF FLORIDA C/O FDIC AS RECEIVER FOR PROGRESS BANK OF  
FLORIDA, JEFFREY CROOKS, MARY CROOKS,  
THOMAS GLEASON, JR. AND MARY GLEASON**

By way of further answer, the defendant, City of Philadelphia, avers the following New Matter:

51. The City of Philadelphia avers that the premises described in the Complaint and the situs were owned, possessed, or controlled by the abutting property owner and/or tenant; that it was duty to keep and maintain said situs abutting said premises in a reasonably safe condition; that if there was any unsafe or hazardous condition thereon, it was due to its carelessness and negligence; and that if the Complainant was injured as alleged, it was due solely to the negligence and carelessness of the said parties. It is further averred that the said abutting property owner and/or tenant is primarily and solely liable, and in the event that a verdict should be rendered in favor of the Complainant against the defendant, City of Philadelphia, the City of Philadelphia demands judgment in its favor in the amount of said verdict by way of contribution or indemnity against the said abutting property owner and/or tenant.

52. The City of Philadelphia asserts all of the defenses, immunities, and limitations of damages available to it under the "Political Subdivision Tort Claims Act", and avers that the plaintiff's remedies are limited exclusively thereto. Act of Oct. 5, 1980, No. 142, P.L. 693, 42 Pa. C.S.A. §8541 et seq.

53. The City of Philadelphia further avers that by plaintiff's actions at the date, time and place stated in the Plaintiff's Civil Action, plaintiff did assume the risk of any and all injuries and/or damages which plaintiff is alleged to have suffered.

54. It is averred that plaintiff, failed to give the City of Philadelphia, a municipality, a proper six months written notice of the alleged claim as required by the Act of Oct. 5, 1980, No. 142, P.L. 693, 42 Pa. C.S.A. §5522 et seq., whereby, said claim is barred.

**NEW MATTER CROSSCLAIM**

By way of further New Matter, defendant, City of Philadelphia, crossclaims on the following cause of action:

55. In Plaintiff's Complaint, paragraph 1 through 55, are directed against the co-defendants, Richard Devastey, Progress Bank of Florida C/O FDIC as receiver for Progress Bank of Florida, Jeffrey Crooks, Mary Crooks, Thomas Gleason, Jr. and Mary Gleason.

56. Answering defendant asserts that if in fact those allegations are true, the defendants, Richard Devastey, Progress Bank of Florida C/O FDIC as receiver for Progress Bank of Florida, Jeffrey Crooks, Mary Crooks, Thomas Gleason, Jr. and Mary Gleason, are alone liable to the plaintiff.

57. In the alternative, should defendant, City of Philadelphia, be found liable, it avers that the facts set forth in the Plaintiff's Complaint furnish a basis of liability over against the defendants, Richard Devastey, Progress Bank of Florida C/O FDIC as receiver for Progress Bank of Florida, Jeffrey Crooks, Mary Crooks, Thomas Gleason, Jr. and Mary Gleason, any liability on the defendant, City of Philadelphia, being specifically denied.

**WHEREFORE**, defendant, City of Philadelphia, demands judgment in its favor, but in the alternative demands judgment by way of contribution and/or indemnity from, the defendants, Richard Devastey, Progress Bank of Florida C/O FDIC as receiver for Progress Bank of Florida, Jeffrey Crooks, Mary Crooks, Thomas Gleason, Jr. and Mary Gleason.

Respectfully submitted,

Shelley R. Smith  
City Solicitor

Donna J. Mouzayck  
First Deputy City Solicitor

Norman G. Prajzner  
Chief Deputy City Solicitor

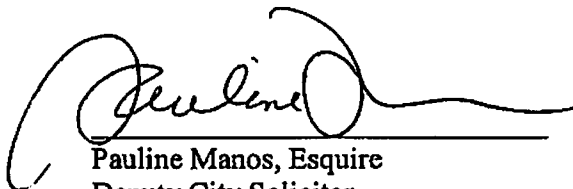
Kenneth S. Butensky  
Divisional Deputy City Solicitor

BY: /s/ Pauline Manos  
Pauline Manos  
Deputy City Solicitor  
Attorneys for the City of Philadelphia

**VERIFICATION**

I, PAULINE MANOS, state that I am a Deputy City Solicitor for the City of Philadelphia, the Defendant herein. On behalf of the City of Philadelphia, I have conducted the investigation in this matter. The facts set forth in the Defendant, City of Philadelphia's Answer to Plaintiff's Complaint in Civil Action With New Matter are true and correct to the best of my knowledge, information, and belief. The City Solicitor, Shelley R. Smith, Esquire is without sufficient personal knowledge and/or information regarding Plaintiff's allegations in this case. I am authorized by the Solicitor to sign the Verification on behalf of the City of Philadelphia in this case.

I understand that my statements are made subject to the penalties of 18 Pa. Cons. Stat. § 4904 relating to unsworn falsification to authorities.

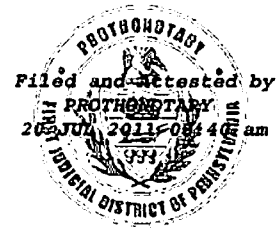


Pauline Manos, Esquire  
Deputy City Solicitor

MESSA & ASSOCIATES, P.C.  
By: Joseph L. Messa, Jr., Esquire  
Lee D. Rosenfeld, Esquire  
Attorney I.D. No.: 53645 / 76081  
123 South 22<sup>nd</sup> Street  
Philadelphia, Pa. 19103  
(215) 568-3500 / Fax: (215) 568-3501

**This is a major case.**

**Jury Trial Demanded**



**Attorneys for Plaintiff**

FRANCES JOYCE  
Plaintiff

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

v.

June Term, 2011

RICHARD DEVASTEY  
ET AL

No: 000031

Defendants

**PRAECIPE TO REINSTATE COMPLAINT**

**TO THE PROTHONOTARY:**

Kindly reinstate the Complaint in the above-captioned matter.

MESSA & ASSOCIATES, P.C.

/s/ Lee D. Rosenfeld

By: \_\_\_\_\_  
Lee D. Rosenfeld, Esquire  
Attorney for Plaintiff

Dated: July 21, 2011

Court of Common Pleas of Philadelphia County  
Trial Division  
**Civil Cover Sheet**

For Prothonotary Use Only (Docket Number)

**JUNE 2011****000031**

E-Filed Number: 1106006793

PLAINTIFF'S NAME <b>FRANCES JOYCE</b>		DEFENDANT'S NAME <b>RICHARD DEVASTEY</b>	
PLAINTIFF'S ADDRESS <b>6650 DICKS AVENUE PHILADELPHIA PA 19142</b>		DEFENDANT'S ADDRESS <b>5601 CHESTER AVENUE PHILADELPHIA PA 19143</b>	
PLAINTIFF'S NAME		DEFENDANT'S NAME <b>CITY OF PHILADELPHIA, C/O LAW DEPARTMENT</b>	
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS <b>1515 ARCH ST., 14TH FLOOR PHILADELPHIA PA 19102</b>	
PLAINTIFF'S NAME		DEFENDANT'S NAME <b>PROGRESS BANK OF FLORIDA C/O FDIC AS RECEIVER PROGRESS BANK</b>	
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS <b>7777 BAYMEADOWS WAY WEST JACKSONVILLE FL 32256</b>	
TOTAL NUMBER OF PLAINTIFFS <b>1</b>	TOTAL NUMBER OF DEFENDANTS <b>7</b>	COMMENCEMENT OF ACTION <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Petition Action <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Writ of Summons <input type="checkbox"/> Transfer From Other Jurisdictions	
AMOUNT IN CONTROVERSY <input type="checkbox"/> \$50,000.00 or less <input checked="" type="checkbox"/> More than \$50,000.00	COURT PROGRAMS <input type="checkbox"/> Arbitration <input type="checkbox"/> Mass Tort <input type="checkbox"/> Commerce <input type="checkbox"/> Settlement <input checked="" type="checkbox"/> Jury <input type="checkbox"/> Savings Action <input type="checkbox"/> Minor Court Appeal <input type="checkbox"/> Minors <input type="checkbox"/> Non-Jury <input type="checkbox"/> Petition <input type="checkbox"/> Statutory Appeals <input type="checkbox"/> W/D/Survival <input type="checkbox"/> Other:		
CASE TYPE AND CODE <b>20 - PERSONAL INJURY - OTHER</b>			
STATUTORY BASIS FOR CAUSE OF ACTION			
RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER)		<b>FILED</b> <b>PRO PROTHY</b> <b>JUN 06 2011</b> <b>S. GARRETT</b>	
		IS CASE SUBJECT TO COORDINATION ORDER? YES    NO	
TO THE PROTHONOTARY: Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: <u>FRANCES JOYCE</u> Papers may be served at the address set forth below.			
NAME OF PLAINTIFF'S/PETITIONER'S/APPELLANT'S ATTORNEY <b>LEE D. ROSENFELD</b>		ADDRESS <b>MESSA &amp; ASSOCIATES PC 123 SOUTH 22ND STREET PHILADELPHIA PA 19103</b>	
PHONE NUMBER <b>(215) 568-3500</b>	FAX NUMBER <b>(215) 568-3501</b>		
SUPREME COURT IDENTIFICATION NO. <b>76081</b>		E-MAIL ADDRESS <b>ldr@messalaw.com</b>	
SIGNATURE OF FILING ATTORNEY OR PARTY <b>LEE ROSENFELD</b>		DATE SUBMITTED <b>Monday, June 06, 2011, 08:50 am</b>	

Case ID: 110600031



**COMPLETE LIST OF DEFENDANTS:**

1. MARY GLEASON  
66 SPRINGTON ROAD  
UPPER DARBY PA 19082
2. THOMAS GLEASON  
66 SPRINGTON ROAD  
UPPER DARBY PA 19082
3. MARY CROOKS  
66 DICKS AVENUE  
PHILADELPHIA PA 19142
4. JEFFREY CROOKS  
6708 DICKS AVENUE  
PHILADELPHIA PA 19142
5. PROGRESS BANK OF FLORIDA C/O FDIC AS RECEIVER PROGRESS BANK  
7777 BAYMEADOWS WAY WEST  
JACKSONVILLE FL 32256
6. CITY OF PHILADELPHIA, C/O LAW DEPARTMENT  
1515 ARCH ST., 14TH FLOOR  
PHILADELPHIA PA 19102
7. RICHARD DEVASTEY  
5601 CHESTER AVENUE  
PHILADELPHIA PA 19143

MESSA & ASSOCIATES, P.C.  
 By: Joseph L. Messa, Jr., Esquire  
 Lee D. Rosenfeld, Esquire  
 Attorney I.D. No.: 53645 / 76081  
 123 South 22<sup>nd</sup> Street  
 Philadelphia, Pa. 19103  
 (215) 568-3500 / Fax: (215) 568-3501

FRANCES JOYCE  
 Plaintiff

v.

RICHARD DEVASTEY  
 5601 Chester Avenue  
 Philadelphia, PA 19143  
 and  
 CITY OF PHILADELPHIA  
 C/O LAW DEPARTMENT  
 14<sup>TH</sup> Floor  
 1515 Arch Street  
 Philadelphia, Pennsylvania 19102  
 and  
 PROGRESS BANK OF FLORIDA  
 c/o FDIC AS Receiver for Progress  
 Bank of Florida  
 7777 Baymeadows Way West  
 Jacksonville, FL 32256  
 and  
 JEFFREY CROOKS  
 6708 Dicks Avenue  
 Philadelphia, PA 19142  
 and  
 MARY CROOKS  
 6708 Dicks Avenue  
 Philadelphia, PA 19142  
 and  
 THOMAS GLEASON, JR.  
 66 Springton Road  
 Upper Darby, PA 19082  
 and  
 MARY GLEASON  
 66 Springton Road  
 Upper Darby, PA 19082  
 Defendants

This is a major case.

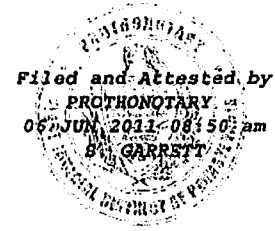
Jury Trial Demanded

Attorneys for Plaintiff

COURT OF COMMON PLEAS  
 PHILADELPHIA COUNTY

June Term, 2011

No:



Case ID: 050000031

**"AVISO"**

"Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

"LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL."

Asociacion de Licenciados  
de Filadelfia  
Servicio de Referencia e  
Informacion Legal  
One Reading Center  
Philadelphia, PA 19107  
(215) 238-6333  
TTY (215) 451-6197

**"NOTICE"**

"You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. If you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP."

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TTY (215) 451-6197

**MESSA & ASSOCIATES, P.C.**

By: Joseph L. Messa, Jr., Esquire

Lee D. Rosenfeld, Esquire

Attorney I.D. Nos.: 53645 / 76081

123 South 22<sup>nd</sup> Street

Philadelphia, Pennsylvania 19103

(215) 568-3500 / Fax: (215) 568-3501

**This is a Major Case.**

**Jury Trial Demanded.**

**Attorneys for Plaintiff**

FRANCIS JOYCE

6650 Dicks Avenue

Philadelphia, PA 19142

Plaintiff

v.

RICHARD DEVASTEY

5601 Chester Avenue

Philadelphia, PA 19143

and

PROGRESS BANK OF FLORIDA

C/O FDIC as RECEIVER for PROGRESS

BANK OF FLORIDA

7777 Baymeadows Way West

Jacksonville, FL 32256

and

CITY OF PHILADELPHIA

Law Department - 14<sup>th</sup> Floor

1515 Arch Street

Philadelphia, PA 19102

and

JEFFREY CROOKS

6708 Dicks Avenue

Philadelphia, PA 19142

and

MARY CROOKS

6708 Dicks Avenue

Philadelphia, PA 19142

and

THOMAS GLEASON, JR

66 Springton Road

Upper Darby, PA 19082

and

MARY GLEASON

66 Springton Road

Upper Darby, PA 19082

PHILADELPHIA COUNTY

COURT OF COMMON PLEAS

June Term, 2011

No.

Defendants

:

---

**CIVIL ACTION - COMPLAINT**

215-735-3999

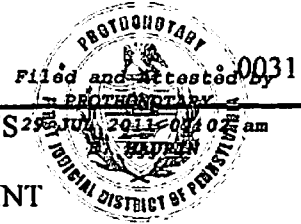
## COURT HOUSE LEGAL SERVICES, INC.

856-428-4700

## RETURN OF SERVICE-PHILADELPHIA CO.

## COURT TERM AND NUMBER

JUNE 2011



0031

## PLAINTIFF(S)

FRANCES JOYCE

## DEFENDANT(S)

MARY GLEASON

☐ SUMMONS☒ COMPLAINT☐ WRIT OF REVIVAL☐ SUBPOENA☒ OTHER Praccipe to Reinstate

## SERVE AT:

6905 CHESTER AVE, PHILADELPHIA, P.A. 19142

## TYPE OF ACTION:

CIVIL

## SPECIAL INSTRUCTIONS:

## SERVICE

Served and made known to Mary Gleason, Defendant(s)  
 on the 21<sup>st</sup> day of July, 20 11, at 7:40 o'clock P M., at 6708  
Dicks Ave, Phila County of Philadelphia, Commonwealth of PA, in the manner described below:

- ☒ Defendant(s) personally served.  
☐ Adult family member with whom said Defendant(s) reside. Name and relationship: \_\_\_\_\_  
☐ Adult in charge of Defendant(s) residence who refused to give name or relationship.  
☐ Manager/Clerk of place of lodging in which Defendant(s) reside(s).  
☐ Agent or person in charge of Defendant(s) office or usual place of business.  
☐ Officer of said Defendant Company. Name and title \_\_\_\_\_  
☐ Municipality. Name and title \_\_\_\_\_  
☐ Other \_\_\_\_\_

By [Signature]Date 7/23/11

## NON SERVICE

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock, \_\_\_\_\_ M., Defendant(s) not found because:  
☐ Moved ☐ Unknown ☐ Vacant ☐ Bad Address ☐ No answer ☐ Other \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

## ATTORNEY INFORMATION

Name LEE D. ROSENFELD, ESQ.Firm MESSA & ASSOCIATES, P.C.Address 123 SOUTH 22<sup>ND</sup> STREET  
PHILADELPHIA, P.A. 19103Phone 215-568-3500 ID# 76081

## NOTARY

On the 22<sup>st</sup> day of July, 20 11Daniel Guich personally came

before me and attested to the above.

[Signature]

Stacey Ann Collins  
 Notary Public  
 New Jersey

My Commission Expires 06/30/2015

215-735-3999

## COURT HOUSE LEGAL SERVICES, INC.

856-428-4700

## RETURN OF SERVICE-PHILADELPHIA CO.

## COURT TERM AND NUMBER

JUNE 2011 Filed and Attested 0031

## PLAINTIFF(S)

FRANCES JOYCE

## DEFENDANT(S)

THOMAS GLEASON

☐ SUMMONS☒ COMPLAINT☐ WRIT OF REVIVAL☐ SUBPOENA☒ OTHER Praccipe to Reinstate

## SERVE AT:

6905 CHESTER AVE, PHILADELPHIA, P.A. 19142

## TYPE OF ACTION:

CIVIL

## SPECIAL INSTRUCTIONS:

## SERVICE

Served and made known to Thomas Gleason Defendant(s)  
 on the 21<sup>st</sup> day of July, 20 11, at 7:20 o'clock P M., at above address  
 County of Philadelphia, Commonwealth of PA, in the manner described below:

- ☒ Defendant(s) personally served.  
☐ Adult family member with whom said Defendant(s) reside. Name and relationship: \_\_\_\_\_  
☐ Adult in charge of Defendant(s) residence who refused to give name or relationship.  
☐ Manager/Clerk of place of lodging in which Defendant(s) reside(s).  
☐ Agent or person in charge of Defendant(s) office or usual place of business.  
☐ Officer of said Defendant Company. Name and title \_\_\_\_\_  
☐ Municipality. Name and title \_\_\_\_\_  
☐ Other \_\_\_\_\_

By [Signature]Date 7/22/11

## NON SERVICE

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock, \_\_\_\_\_ M., Defendant(s) not found because:  
☐ Moved ☐ Unknown ☐ Vacant ☐ Bad Address ☐ No answer ☐ Other \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

## ATTORNEY INFORMATION

Name LEE D. ROSENFELD, ESQ.Firm MESSA & ASSOCIATES, P.C.Address 123 SOUTH 22<sup>ND</sup> STREET  
PHILADELPHIA, P.A. 19103Phone 215-568-3500 ID# 76081

## NOTARY

On the 22<sup>nd</sup> day of July, 20 11Daniel A. [Signature] personally came

before me and attested to the above.

Stacey CollinsStacey Ann Collins  
Notary Public  
New JerseyMy Commission Expires 12-31-2014 600031

MESSA & ASSOCIATES, P.C.  
By: Joseph L. Messa, Jr., Esquire  
Lee D. Rosenfeld, Esquire  
Attorney I.D. No.: 53645 / 76081  
123 South 22<sup>nd</sup> Street  
Philadelphia, Pa. 19103  
(215) 568-3500 / Fax: (215) 568-3501

This is a major case.

Jury Trial Demanded



Attorneys for Plaintiff

FRANCES JOYCE  
Plaintiff

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

v.

RICHARD DEVASTEY  
ET AL

June Term, 2011

No: 000031

Defendants

**PRAECIPE TO REINSTATE COMPLAINT**

**TO THE PROTHONOTARY:**

Kindly reinstate the Complaint in the above-captioned matter.

MESSA & ASSOCIATES, P.C.

/s/ Lee D. Rosenfeld

By: \_\_\_\_\_  
Lee D. Rosenfeld, Esquire  
Attorney for Plaintiff

Dated: August 11, 2011



Court of Common Pleas of Philadelphia County  
Trial Division  
**Civil Cover Sheet**

For Prothonotary Use Only (Docket Number)	
<b>JUNE 2011</b> E-Filing Number: 1106006793 <span style="float: right; font-size: 1.2em;"><b>000031</b></span>	
PLAINTIFF'S NAME FRANCES JOYCE	DEFENDANT'S NAME RICHARD DEVASTAY
PLAINTIFF'S ADDRESS 6650 DICKS AVENUE PHILADELPHIA PA 19142	DEFENDANT'S ADDRESS 5601 CHESTER AVENUE PHILADELPHIA PA 19143
PLAINTIFF'S NAME	DEFENDANT'S NAME CITY OF PHILADELPHIA, C/O LAW DEPARTMENT
PLAINTIFF'S ADDRESS	DEFENDANT'S ADDRESS 1515 ARCH ST., 14TH FLOOR PHILADELPHIA PA 19102
PLAINTIFF'S NAME	DEFENDANT'S NAME PROGRESS BANK OF FLORIDA C/O FDIC AS RECEIVER PROGRESS BANK
PLAINTIFF'S ADDRESS	DEFENDANT'S ADDRESS 7777 BAYMEADOWS WAY WEST JACKSONVILLE FL 32256
TOTAL NUMBER OF PLAINTIFFS 1	TOTAL NUMBER OF DEFENDANTS 7 COMMENCEMENT OF ACTION <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Petition Action <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Writ of Summons <input type="checkbox"/> Transfer From Other Jurisdictions
AMOUNT IN CONTROVERSY <input type="checkbox"/> \$50,000.00 or less <input checked="" type="checkbox"/> More than \$50,000.00	COURT PROGRAMS <input type="checkbox"/> Arbitration <input type="checkbox"/> Mass Tort <input type="checkbox"/> Commerce <input type="checkbox"/> Settlement <input checked="" type="checkbox"/> Jury <input type="checkbox"/> Savings Action <input type="checkbox"/> Minor Court Appeal <input type="checkbox"/> Minors <input type="checkbox"/> Non-Jury <input type="checkbox"/> Petition <input type="checkbox"/> Statutory Appeals <input type="checkbox"/> W/D/Survival <input type="checkbox"/> Other: _____
CASE TYPE AND CODE 20 - PERSONAL INJURY - OTHER	
STATUTORY BASIS FOR CAUSE OF ACTION	
RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER)	IS CASE SUBJECT TO COORDINATION ORDER? YES    NO
<b>FILED PROPROTHY</b> <b>JUN 06 2011</b> <b>S. GARRETT</b>	
TO THE PROTHONOTARY: Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: <u>FRANCES JOYCE</u> Papers may be served at the address set forth below.	
NAME OF PLAINTIFFS/PETITIONERS/APPELLANT'S ATTORNEY LEE D. ROSENFELD	ADDRESS MESSA & ASSOCIATES PC 123 SOUTH 22ND STREET PHILADELPHIA PA 19103
PHONE NUMBER (215) 568-3500	FAX NUMBER (215) 568-3501
SUPREME COURT IDENTIFICATION NO. 76081	E-MAIL ADDRESS ldr@messalaw.com
SIGNATURE OF FILING ATTORNEY OR PARTY LEE ROSENFELD	DATE SUBMITTED Monday, June 06, 2011, 08:50 am

**COMPLETE LIST OF DEFENDANTS:**

1. MARY GLEASON  
66 SPRINGTON ROAD  
UPPER DARBY PA 19082
2. THOMAS GLEASON  
66 SPRINGTON ROAD  
UPPER DARBY PA 19082
3. MARY CROOKS  
66 DICKS AVENUE  
PHILADELPHIA PA 19142
4. JEFFREY CROOKS  
6708 DICKS AVENUE  
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PHILADELPHIA PA 19102
7. RICHARD DEVASTEY  
5601 CHESTER AVENUE  
PHILADELPHIA PA 19143

MESSA & ASSOCIATES, P.C.  
 By: Joseph L. Messa, Jr., Esquire  
 Lee D. Rosenfeld, Esquire  
 Attorney I.D. No.: 53645 / 76081  
 123 South 22<sup>nd</sup> Street  
 Philadelphia, Pa. 19103  
 (215) 568-3500 / Fax: (215) 568-3501

FRANCES JOYCE  
 Plaintiff

v.

RICHARD DEVASTEY  
 5601 Chester Avenue  
 Philadelphia, PA 19143  
 and  
 CITY OF PHILADELPHIA  
 C/O LAW DEPARTMENT  
 14<sup>TH</sup> Floor  
 1515 Arch Street  
 Philadelphia, Pennsylvania 19102  
 and  
 PROGRESS BANK OF FLORIDA  
 c/o FDIC AS Receiver for Progress  
 Bank of Florida  
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 and  
 JEFFREY CROOKS  
 6708 Dicks Avenue  
 Philadelphia, PA 19142  
 and  
 MARY CROOKS  
 6708 Dicks Avenue  
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 and  
 THOMAS GLEASON, JR.  
 66 Springton Road  
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 and  
 MARY GLEASON  
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 Defendants

This is a major case.

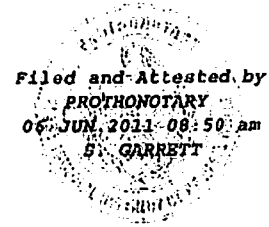
Jury Trial Demanded

Attorneys for Plaintiff

COURT OF COMMON PLEAS  
 PHILADELPHIA COUNTY

June Term, 2011

No:



**"NOTICE"**

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Philadelphia Bar Association  
Lawyer Referral  
and Information Service  
One Reading Center  
Philadelphia, PA 19107  
(215) 238-6333  
TTY (215) 451-6197

**"AVISO"**

"Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

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de Filadelfia  
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Informacion Legal  
One Reading Center  
Philadelphia, PA 19107  
(215) 238-6333  
TTY (215) 451-6197

**MESSA & ASSOCIATES, P.C.**  
 By: Joseph L. Messa, Jr., Esquire  
 Lee D. Rosenfeld, Esquire  
 Attorney I.D. Nos.: 53645 / 76081  
 123 South 22<sup>nd</sup> Street  
 Philadelphia, Pennsylvania 19103  
 (215) 568-3500 / Fax: (215) 568-3501

**This is a Major Case.**

**Jury Trial Demanded.**

**Attorneys for Plaintiff**

FRANCIS JOYCE  
 6650 Dicks Avenue  
 Philadelphia, PA 19142

Plaintiff

v.

RICHARD DEVASTEY  
 5601 Chester Avenue  
 Philadelphia, PA 19143

and

PROGRESS BANK OF FLORIDA  
 C/O FDIC as RECEIVER for PROGRESS  
 BANK OF FLORIDA  
 7777 Baymeadows Way West  
 Jacksonville, FL 32256

and

CITY OF PHILADELPHIA  
 Law Department - 14<sup>th</sup> Floor  
 1515 Arch Street  
 Philadelphia, PA 19102

and

JEFFREY CROOKS  
 6708 Dicks Avenue  
 Philadelphia, PA 19142

and

MARY CROOKS  
 6708 Dicks Avenue  
 Philadelphia, PA 19142

and

THOMAS GLEASON, JR  
 66 Springton Road  
 Upper Darby, PA 19082

and

MARY GLEASON  
 66 Springton Road  
 Upper Darby, PA 19082

PHILADELPHIA COUNTY  
 COURT OF COMMON PLEAS

June Term, 2011  
 No.

Defendants :

---

**CIVIL ACTION - COMPLAINT**

MESSA & ASSOCIATES, P.C.  
By: Joseph L. Messa, Jr., Esquire  
Lee D. Rosenfeld, Esquire  
Attorney I.D. No.: 53645 / 76081  
123 South 22<sup>nd</sup> Street  
Philadelphia, Pa. 19103  
(215) 568-3500 / Fax: (215) 568-3501

This is a major case.

Jury Trial Demanded



Attorneys for Plaintiff

FRANCES JOYCE  
Plaintiff

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

v.

June Term, 2011

RICHARD DEVASTEY  
ET AL

No: 000031

Defendants

**PRAECIPE TO REINSTATE COMPLAINT**

**TO THE PROTHONOTARY:**

Kindly reinstate the Complaint in the above-captioned matter.

MESSA & ASSOCIATES, P.C.

/s/ Lee D. Rosenfeld

By: \_\_\_\_\_  
Lee D. Rosenfeld, Esquire  
Attorney for Plaintiff

Dated: September 1, 2011

Court of Common Pleas of Philadelphia County  
Trial Division  
**Civil Cover Sheet**

For Prothonotary Use Only (Docket Number)	
<b>JUNE 2011</b> E-Filed Number: 1106006793 <b>000031</b>	
PLAINTIFF'S NAME FRANCES JOYCE	DEFENDANT'S NAME RICHARD DEVASTAY
PLAINTIFF'S ADDRESS 6650 DICKS AVENUE PHILADELPHIA PA 19142	DEFENDANT'S ADDRESS 5601 CHESTER AVENUE PHILADELPHIA PA 19143
PLAINTIFF'S NAME	DEFENDANT'S NAME CITY OF PHILADELPHIA, C/O LAW DEPARTMENT
PLAINTIFF'S ADDRESS	DEFENDANT'S ADDRESS 1515 ARCH ST., 14TH FLOOR PHILADELPHIA PA 19102
PLAINTIFF'S NAME	DEFENDANT'S NAME PROGRESS BANK OF FLORIDA C/O FDIC AS RECEIVER PROGRESS BANK
PLAINTIFF'S ADDRESS	DEFENDANT'S ADDRESS 7777 BAYMEADOWS WAY WEST JACKSONVILLE FL 32256
TOTAL NUMBER OF PLAINTIFFS 1	TOTAL NUMBER OF DEFENDANTS 7
COMMENCEMENT OF ACTION <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Petition Action <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Writ of Summons <input type="checkbox"/> Transfer From Other Jurisdictions	
AMOUNT IN CONTROVERSY <input type="checkbox"/> \$50,000.00 or less <input checked="" type="checkbox"/> More than \$50,000.00	COURT PROGRAMS <input type="checkbox"/> Arbitration <input type="checkbox"/> Mass Tort <input type="checkbox"/> Commerce <input type="checkbox"/> Settlement <input checked="" type="checkbox"/> Jury <input type="checkbox"/> Savings Action <input type="checkbox"/> Minor Court Appeal <input type="checkbox"/> Minors <input type="checkbox"/> Non-Jury <input type="checkbox"/> Petition <input type="checkbox"/> Statutory Appeals <input type="checkbox"/> W/D/Survival <input type="checkbox"/> Other:
CASE TYPE AND CODE 20 - PERSONAL INJURY - OTHER	
STATUTORY BASIS FOR CAUSE OF ACTION	
RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER)	
FILED <b>PROPROTHY</b> <b>JUN 06 2011</b> <b>S. GARRETT</b>	
IS CASE SUBJECT TO COORDINATION ORDER? YES NO	
TO THE PROTHONOTARY: Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: <u>FRANCES JOYCE</u> papers may be served at the address set forth below.	
NAME OF PLAINTIFFS/PETITIONER'S/APPELLANT'S ATTORNEY LEE D. ROSENFELD	ADDRESS MESSA & ASSOCIATES PC 123 SOUTH 22ND STREET PHILADELPHIA PA 19103
PHONE NUMBER (215) 568-3500	FAX NUMBER (215) 568-3501
UPPER COURT IDENTIFICATION NO. 76081	E-MAIL ADDRESS ldr@messalaw.com
SIGNATURE OF FILING ATTORNEY OR PARTY LEE ROSENFELD	DATE SUBMITTED Monday, June 06, 2011, 08:50 am



**COMPLETE LIST OF DEFENDANTS:**

1. MARY GLEASON  
66 SPRINGTON ROAD  
UPPER DARBY PA 19082
2. THOMAS GLEASON  
66 SPRINGTON ROAD  
UPPER DARBY PA 19082
3. MARY CROOKS  
66 DICKS AVENUE  
PHILADELPHIA PA 19142
4. JEFFREY CROOKS  
6708 DICKS AVENUE  
PHILADELPHIA PA 19142
5. PROGRESS BANK OF FLORIDA C/O FDIC AS RECEIVER PROGRESS BANK  
7777 BAYMEADOWS WAY WEST  
JACKSONVILLE FL 32256
6. CITY OF PHILADELPHIA, C/O LAW DEPARTMENT  
1515 ARCH ST., 14TH FLOOR  
PHILADELPHIA PA 19102
7. RICHARD DEVASTEY  
5601 CHESTER AVENUE  
PHILADELPHIA PA 19143

MESSA & ASSOCIATES, P.C.  
 By: Joseph L. Messa, Jr., Esquire  
 Lee D. Rosenfeld, Esquire  
 Attorney I.D. No.: 53645 / 76081  
 123 South 22<sup>nd</sup> Street  
 Philadelphia, Pa. 19103  
 (215) 568-3500 / Fax: (215) 568-3501

FRANCES JOYCE  
 Plaintiff

v.

RICHARD DEVASTEY  
 5601 Chester Avenue  
 Philadelphia, PA 19143  
 and  
 CITY OF PHILADELPHIA  
 C/O LAW DEPARTMENT  
 14<sup>TH</sup> Floor  
 1515 Arch Street  
 Philadelphia, Pennsylvania 19102  
 and  
 PROGRESS BANK OF FLORIDA  
 c/o FDIC AS Receiver for Progress  
 Bank of Florida  
 7777 Baymeadows Way West  
 Jacksonville, FL 32256  
 and  
 JEFFREY CROOKS  
 6708 Dicks Avenue  
 Philadelphia, PA 19142  
 and  
 MARY CROOKS  
 6708 Dicks Avenue  
 Philadelphia, PA 19142  
 and  
 THOMAS GLEASON, JR.  
 66 Springton Road  
 Upper Darby, PA 19082  
 and  
 MARY GLEASON  
 66 Springton Road  
 Upper Darby, PA 19082  
 Defendants

This is a major case.

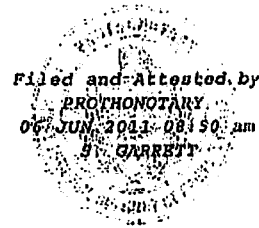
Jury Trial Demanded

Attorneys for Plaintiff

COURT OF COMMON PLEAS  
 PHILADELPHIA COUNTY

June Term, 2011

No:



**"NOTICE"**

"You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP."**

Philadelphia Bar Association  
Lawyer Referral  
and Information Service  
One Reading Center  
Philadelphia, PA 19107  
(215) 238-6333  
TTY (215) 451-6197

**"AVISO"**

"Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

**"LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL."**

Asociación de Licenciados  
de Filadelfia  
Servicio de Referencia e  
Información Legal  
One Reading Center  
Philadelphia, PA 19107  
(215) 238-6333  
TTY (215) 451-6197

**MESSA & ASSOCIATES, P.C.**

By: Joseph L. Messa, Jr., Esquire

Lee D. Rosenfeld, Esquire

Attorney I.D. Nos.: 53645 / 76081

123 South 22<sup>nd</sup> Street

Philadelphia, Pennsylvania 19103

(215) 568-3500 / Fax: (215) 568-3501

**This is a Major Case.**

**Jury Trial Demanded.**

**Attorneys for Plaintiff**

FRANCIS JOYCE

6650 Dicks Avenue

Philadelphia, PA 19142

Plaintiff

v.

RICHARD DEVASTEY

5601 Chester Avenue

Philadelphia, PA 19143

and

PROGRESS BANK OF FLORIDA

C/O FDIC as RECEIVER for PROGRESS

BANK OF FLORIDA

7777 Baymeadows Way West

Jacksonville, FL 32256

and

CITY OF PHILADELPHIA

Law Department - 14<sup>th</sup> Floor

1515 Arch Street

Philadelphia, PA 19102

and

JEFFREY CROOKS

6708 Dicks Avenue

Philadelphia, PA 19142

and

MARY CROOKS

6708 Dicks Avenue

Philadelphia, PA 19142

and

THOMAS GLEASON, JR

66 Springton Road

Upper Darby, PA 19082

and

MARY GLEASON

66 Springton Road

Upper Darby, PA 19082

PHILADELPHIA COUNTY

COURT OF COMMON PLEAS

June Term, 2011

No.

Defendants :

---

**CIVIL ACTION - COMPLAINT**

MESSA & ASSOCIATES, P.C.  
By: Joseph L. Messa, Jr., Esquire  
Lee D. Rosenfeld, Esquire  
Attorney I.D. No.: 53645 / 76081  
123 South 22<sup>nd</sup> Street  
Philadelphia, Pa. 19103  
(215) 568-3500 / Fax: (215) 568-3501

This is a major case.

Jury Trial Demanded

Attorneys for Plaintiff



FRANCES JOYCE  
Plaintiff

v.

RICHARD DEVASTEY  
ET AL

Defendants

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

June Term, 2011

No: 000031

**PRAECIPE TO REINSTATE COMPLAINT**

**TO THE PROTHONOTARY:**

Kindly reinstate the Complaint in the above-captioned matter.

MESSA & ASSOCIATES, P.C.

/s/ Lee D. Rosenfeld

By: \_\_\_\_\_  
Lee D. Rosenfeld, Esquire  
Attorney for Plaintiff

Dated: September 22, 2011

MESSA & ASSOCIATES, P.C.  
By: Joseph L. Messa, Jr., Esquire  
Lee D. Rosenfeld, Esquire  
Attorney I.D. No.: 53645 / 76081  
123 South 22<sup>nd</sup> Street  
Philadelphia, Pa. 19103  
(215) 568-3500 / Fax: (215) 568-3501

This is a major case.

Jury Trial Demanded

Filed and Attested by  
PROTHONOTARY  
31 AUG 2011 08:00:30

Attorneys for Plaintiff

FRANCES JOYCE  
Plaintiff

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

v.

June Term, 2011

RICHARD DEVASTEY  
ET AL

No: 000031

Defendants

**PRAECIPE TO REINSTATE COMPLAINT**

**TO THE PROTHONOTARY:**

Kindly reinstate the Complaint in the above-captioned matter.

MESSA & ASSOCIATES, P.C.

/s/ Lee D. Rosenfeld

By: \_\_\_\_\_  
Lee D. Rosenfeld, Esquire  
Attorney for Plaintiff

Dated: September 1, 2011

Case ID: 11060003  
Case ID: 110600031

Court of Common Pleas of Philadelphia County

Trial Division

## Civil Cover Sheet

For Prothonotary Use Only (Docket Number)

JUNE 2011

000031

E-Filed Number: 1106006793

PLAINTIFF'S NAME  
FRANCES JOYCEDEFENDANT'S NAME  
RICHARD DEVASTEYPLAINTIFF'S ADDRESS  
1650 DICKS AVENUE  
PHILADELPHIA PA 19142DEFENDANT'S ADDRESS  
5601 CHESTER AVENUE  
PHILADELPHIA PA 19143Filed and docketed by  
PROTHONOTARY  
20 JUN 12 12:08:01 PM 00 am

PLAINTIFF'S NAME

DEFENDANT'S NAME  
CITY OF PHILADELPHIA, C/O LAW DEPARTMENT

PLAINTIFF'S ADDRESS

DEFENDANT'S ADDRESS  
1515 ARCH ST., 14TH FLOOR  
PHILADELPHIA PA 19102

PLAINTIFF'S NAME

DEFENDANT'S NAME  
PROGRESS BANK OF FLORIDA C/O FDIC AS RECEIVER  
PROGRESS BANK

PLAINTIFF'S ADDRESS

DEFENDANT'S ADDRESS  
7777 BAYMEADOWS WAY WEST  
JACKSONVILLE FL 32256

TOTAL NUMBER OF PLAINTIFFS

1

TOTAL NUMBER OF DEFENDANTS

7

COMMENCEMENT OF ACTION

☒ Complaint
 ☐ Petition Action
 ☐ Notice of Appeal  
☐ Writ of Summons
 ☐ Transfer From Other Jurisdictions

AMOUNT IN CONTROVERSY

\$50,000.00 or less  
More than \$50,000.00

COURT PROGRAMS

☐ Arbitration
 ☐ Mass Tort
 ☐ Commerce
 ☐ Settlement  
☒ Jury
 ☐ Savings Action
 ☐ Minor Court Appeal
 ☐ Minors  
☐ Non-Jury
 ☐ Petition
 ☐ Statutory Appeals
 ☐ W/D/Survival  
☐ Other:

CASE TYPE AND CODE

O - PERSONAL INJURY - OTHER

TUTORIAL BASIS FOR CAUSE OF ACTION

RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER)

 FILED  
 PROTHONOTARY  
 JUN 06 2011  
 S. GARRETT
IS CASE SUBJECT TO  
COORDINATION ORDER?  
YES NO

THE PROTHONOTARY:

I will enter my appearance on behalf of Plaintiff/Petitioner/Appellant: FRANCES JOYCE

Persons may be served at the address set forth below.

NAME OF PLAINTIFF'S/PETITIONER'S/APPELLANT'S ATTORNEY

JESSIE D. ROSENFELD

ADDRESS

MESSA & ASSOCIATES PC  
123 SOUTH 22ND STREET  
PHILADELPHIA PA 19103

PHONE NUMBER

(215) 568-3500

FAX NUMBER

(215) 568-3501

COURT IDENTIFICATION NO.

081

E-MAIL ADDRESS

ldr@messalaw.com

NATURE OF FILING ATTORNEY OR PARTY

JESSIE ROSENFELD

DATE SUBMITTED

Monday, June 06, 2011, 08:50 am

FINAL COPY (Approved by the Prothonotary Clerk)

EXHIBIT D (Page 64)

Case ID: 1106006793  
Case ID: 1106006793



COMPLETE LIST OF DEFENDANTS:

1. MARY GLEASON  
66 SPRINGTON ROAD  
UPPER DARBY PA 19082
2. THOMAS GLEASON  
66 SPRINGTON ROAD  
UPPER DARBY PA 19082
3. MARY CROOKS  
66 DICKS AVENUE  
PHILADELPHIA PA 19142
4. JEFFREY CROOKS  
6708 DICKS AVENUE  
PHILADELPHIA PA 19142
5. PROGRESS BANK OF FLORIDA C/O FDIC AS RECEIVER PROGRESS BANK  
7777 BAYMEADOWS WAY WEST  
JACKSONVILLE FL 32256
6. CITY OF PHILADELPHIA, C/O LAW DEPARTMENT  
1515 ARCH ST., 14TH FLOOR  
PHILADELPHIA PA 19102
7. RICHARD DEVASTEY  
5601 CHESTER AVENUE  
PHILADELPHIA PA 19143

MESSA & ASSOCIATES, P.C.  
 By: Joseph L. Messa, Jr., Esquire  
 Lee D. Rosenfeld, Esquire  
 Attorney I.D. No.: 53645 / 76081  
 123 South 22<sup>nd</sup> Street  
 Philadelphia, Pa. 19103  
 (215) 568-3500 / Fax: (215) 568-3501

FRANCES JOYCE  
 Plaintiff

v.

RICHARD DEVASTEY  
 5601 Chester Avenue  
 Philadelphia, PA 19143  
 and  
 CITY OF PHILADELPHIA  
 C/O LAW DEPARTMENT  
 14<sup>TH</sup> Floor  
 1515 Arch Street  
 Philadelphia, Pennsylvania 19102  
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 c/o FDIC AS Receiver for Progress  
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 and  
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 THOMAS GLEASON, JR.  
 66 Springton Road  
 Upper Darby, PA 19082  
 and  
 MARY GLEASON  
 66 Springton Road  
 Upper Darby, PA 19082  
Defendants

This is a major case.

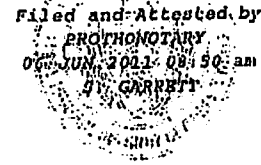
Jury Trial Demanded

Attorneys for Plaintiff

COURT OF COMMON PLEAS  
 PHILADELPHIA COUNTY

June Term, 2011

No:



**"NOTICE"**

"You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP."

Philadelphia Bar Association  
Lawyer Referral  
and Information Service  
One Reading Center  
Philadelphia, PA 19107  
(215) 238-6333  
TTY (215) 451-6197

**"AVISO"**

"Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

"LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL."

Asociación de Licenciados  
de Filadelfia  
Servicio de Referencia e  
Información Legal  
One Reading Center  
Philadelphia, PA 19107  
(215) 238-6333  
TTY (215) 451-6197



## Defendants

11

CIVIL ACTION - COMPLAINT

Case ID: 110600030003  
Case ID: 110600030003  
Case ID: 110600030003  
Case ID: 110600030003

MESSA & ASSOCIATES, P.C.

By: Joseph L. Messa, Jr., Esquire

Lee D. Rosenfeld, Esquire

Attorney I.D. No.: 53645 / 76081

123 South 22<sup>nd</sup> Street

Philadelphia, Pa. 19103

(215) 568-3500 / Fax: (215) 568-3501

This is a major case.

Jury Trial Demanded

Attorneys for Plaintiff



FRANCES JOYCE

Plaintiff

v.

RICHARD DEVASTEY

ET AL

Defendants

COURT OF COMMON PLEAS

PHILADELPHIA COUNTY

June Term, 2011

No: 000031

**PRAECIPE TO REINSTATE COMPLAINT**

**TO THE PROTHONOTARY:**

Kindly reinstate the Complaint in the above-captioned matter.

MESSA & ASSOCIATES, P.C.

/s/ Lee D. Rosenfeld

By: \_\_\_\_\_

Lee D. Rosenfeld, Esquire  
Attorney for Plaintiff

Dated: October 12, 2011

MESSA & ASSOCIATES, P.C.  
By: Joseph L. Messa, Jr., Esquire  
Lee D. Rosenfeld, Esquire  
Attorney I.D. No.: 53645 / 76081  
123 South 22<sup>nd</sup> Street  
Philadelphia, Pa. 19103  
(215) 568-3500 / Fax: (215) 568-3501

This is a major case.

Jury Trial Demanded

Filed and Attested by  
PROTHONOTARY  
11 AUG 2011 08:00:am

Attorneys for Plaintiff

FRANCES JOYCE  
Plaintiff

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

v.

June Term, 2011

RICHARD DEVASTHEY  
ET AL

No: 000031

Defendants

**PRAECIPE TO REINSTATE COMPLAINT**

TO THE PROTHONOTARY:

Kindly reinstate the Complaint in the above-captioned matter.

MESSA & ASSOCIATES, P.C.

/s/ Lee D. Rosenfeld

By: \_\_\_\_\_  
Lee D. Rosenfeld, Esquire  
Attorney for Plaintiff

Dated: September 1, 2011

Case ID: 11060003  
Case ID: 11060003  
Case ID: 110600031

Court of Common Pleas of Philadelphia County  
Trial Division  
**Civil Cover Sheet**

TFF'S NAME <b>ANCES JOYCE</b>		DEFENDANT'S NAME <b>RICHARD DEVASTEY</b>	
TFF'S ADDRESS <b>50 DICKS AVENUE          PHILADELPHIA PA 19142</b>		DEFENDANT'S ADDRESS <b>5601 CHESTER AVENUE          PHILADELPHIA PA 19143</b>	
TFF'S NAME 		DEFENDANT'S NAME <b>CITY OF PHILADELPHIA, C/O LAW DEPARTMENT</b>	
TFF'S ADDRESS 		DEFENDANT'S ADDRESS <b>1515 ARCH ST., 14TH FLOOR          PHILADELPHIA PA 19102</b>	
TFF'S NAME 		DEFENDANT'S NAME <b>PROGRESS BANK OF FLORIDA C/O FDIC AS RECEIVER          PROGRESS BANK</b>	
TFF'S ADDRESS 		DEFENDANT'S ADDRESS <b>7777 BAYMEADOWS WAY WEST          JACKSONVILLE FL 32256</b>	

NUMBER OF PLAINTIFFS <b>1</b>	TOTAL NUMBER OF DEFENDANTS <b>7</b>	COMMENCEMENT OF ACTION <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Petition Action <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Writ of Summons <input type="checkbox"/> Transfer From Other Jurisdictions	
AMOUNT IN CONTROVERSY <b>0,000.00 or less</b> more than \$50,000.00	COURT PROGRAMS <input type="checkbox"/> Arbitration <input type="checkbox"/> Mass Tort <input type="checkbox"/> Commerce <input type="checkbox"/> Settlement <input checked="" type="checkbox"/> Jury <input type="checkbox"/> Savings Action <input type="checkbox"/> Minor Court Appeal <input type="checkbox"/> Minors <input type="checkbox"/> Non-Jury <input type="checkbox"/> Petition <input type="checkbox"/> Statutory Appeals <input type="checkbox"/> W/D/Survival <input type="checkbox"/> Other:		

TYPE AND CODE  
**- PERSONAL INJURY - OTHER**

PRIMARY BASIS FOR CAUSE OF ACTION

OF PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER) <div style="text-align: center;"> <b>FILED</b>  <b>PRO PROTHY</b>  <b>JUN 06 2011</b>  <b>S. GARRETT</b> </div>	IS CASE SUBJECT TO COORDINATION ORDER? YES    NO
--	---

IE PROTHONOTARY:  
 I enter my appearance on behalf of Plaintiff/Petitioner/Appellant: **FRANCES JOYCE**  
 may be served at the address set forth below.

PLAINTIFFS/PETITIONERS/APPELLANT'S ATTORNEY <b>D. ROSENFELD</b>		ADDRESS <b>MESSA &amp; ASSOCIATES PC          123 SOUTH 22ND STREET          PHILADELPHIA PA 19103</b>
NUMBER <b>(215) 568-3500</b>	FAX NUMBER <b>(215) 568-3501</b>	
COURT IDENTIFICATION NO. <b>11</b>		E-MAIL ADDRESS <b>ldr@messalaw.com</b>
NAME OF FILING ATTORNEY OR PARTY <b>ROSENFELD</b>		DATE SUBMITTED <b>Monday, June 06, 2011, 08:50 am</b>



COMPLETE LIST OF DEFENDANTS:

1. MARY GLEASON  
66 SPRINGTON ROAD  
UPPER DARBY PA 19082
2. THOMAS GLEASON  
66 SPRINGTON ROAD  
UPPER DARBY PA 19082
3. MARY CROOKS  
66 DICKS AVENUE  
PHILADELPHIA PA 19142
4. JEFFREY CROOKS  
6708 DICKS AVENUE  
PHILADELPHIA PA 19142
5. PROGRESS BANK OF FLORIDA C/O FDIC AS RECEIVER PROGRESS BANK  
7777 BAYMEADOWS WAY WEST  
JACKSONVILLE FL 32256
6. CITY OF PHILADELPHIA, C/O LAW DEPARTMENT  
1515 ARCH ST., 14TH FLOOR  
PHILADELPHIA PA 19102
7. RICHARD DEVASTHEY  
5601 CHESTER AVENUE  
PHILADELPHIA PA 19143

MESSA & ASSOCIATES, P.C.  
By: Joseph L. Messa, Jr., Esquire  
Lee D. Rosenfeld, Esquire  
Attorney I.D. No.: 53645 / 76081  
123 South 22<sup>nd</sup> Street  
Philadelphia, Pa. 19103  
(215) 568-3500 / Fax: (215) 568-3501

FRANCES JOYCE  
Plaintiff

v.

RICHARD DEVASTEY  
5601 Chester Avenue  
Philadelphia, PA 19143  
and  
CITY OF PHILADELPHIA  
C/O LAW DEPARTMENT  
14<sup>TH</sup> Floor  
1515 Arch Street  
Philadelphia, Pennsylvania 19102  
and  
PROGRESS BANK OF FLORIDA  
c/o FDIC AS Receiver for Progress  
Bank of Florida  
7777 Baymeadows Way West  
Jacksonville, FL 32256  
and  
JEFFREY CROOKS  
6708 Dicks Avenue  
Philadelphia, PA 19142  
and  
MARY CROOKS  
6708 Dicks Avenue  
Philadelphia, PA 19142  
and  
THOMAS GLEASON, JR.  
66 Springton Road  
Upper Darby, PA 19082  
and  
MARY GLEASON  
66 Springton Road  
Upper Darby, PA 19082  
Defendants

This is a major case.

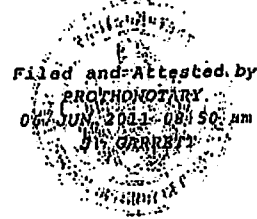
Jury Trial Demanded

Attorneys for Plaintiff

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

June Term, 2011

No:



Case ID: 10500003  
Case ID: 10500003  
Case ID: 10500003  
Case ID: 10500003

**"NOTICE"**

"You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP."

Philadelphia Bar Association  
Lawyer Referral  
and Information Service  
One Reading Center  
Philadelphia, PA 19107  
(215) 238-6333  
TTY (215) 451-6197

**"AVISO"**

"Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días de plazo a partir de la fecha de la demanda y la notificación. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y regular que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

"LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL."

Asociación de Licenciados  
de Filadelfia  
Servicio de Referencia e  
Información Legal  
One Reading Center  
Philadelphia, PA 19107  
(215) 238-6333  
TTY (215) 451-6197

Case ID: U106000003  
Case ID: U106000003  
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**MESSA & ASSOCIATES, P.C.**

By: Joseph L. Messa, Jr., Esquire

Lee D. Rosenfeld, Esquire

Attorney I.D. Nos.: 53645 / 76081

123 South 22<sup>nd</sup> Street

Philadelphia, Pennsylvania 19103

(215) 568-3500 / Fax: (215) 568-3501

**This is a Major Case.**

**Jury Trial Demanded.**

**Attorneys for Plaintiff**

FRANCIS JOYCE

6650 Dicks Avenue

Philadelphia, PA 19142

Plaintiff

v.

RICHARD DEVASTEY

5601 Chester Avenue

Philadelphia, PA 19143

and

PROGRESS BANK OF FLORIDA

C/O FDIC as RECEIVER for PROGRESS

BANK OF FLORIDA

7777 Baymeadows Way West

Jacksonville, FL 32256

and

CITY OF PHILADELPHIA

Law Department - 14<sup>th</sup> Floor

1515 Arch Street

Philadelphia, PA 19102

and

JEFFREY CROOKS

6708 Dicks Avenue

Philadelphia, PA 19142

and

MARY CROOKS

5708 Dicks Avenue

Philadelphia, PA 19142

and

THOMAS GLEASON, JR.

56 Springton Road

Upper Darby, PA 19082

and

MARY GLEASON

56 Springton Road

Upper Darby, PA 19082

PHILADELPHIA COUNTY

COURT OF COMMON PLEAS

June Term, 2011

No.

Case ID: 0500088003  
Case ID: 0500088003  
Case ID: 0500088003  
Case ID: 110600031

Defendants :

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CIVIL ACTION - COMPLAINT

Case ID: 11060000003  
Case ID: 11060000003  
Case ID: 11060000003  
Case ID: 11060000003



IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
TRIAL DIVISION – CIVIL

**JOYCE**  
**VS**  
**DEVASTEY ETAL**

*June Term 2011*

*No. 00031*

**CASE MANAGEMENT ORDER**  
**STANDARD TRACK**

AND NOW, *Monday, October 24, 2011*, it is Ordered that:

1. The case management and time standards adopted for standard track cases shall be applicable to this case and are hereby incorporated into this Order.
2. All *discovery* on the above matter shall be completed not later than *04-SEP-2012*.
3. *Plaintiff* shall identify and submit *curriculum vitae and expert reports* of all expert witnesses intended to testify at trial to all other parties not later than *04-SEP-2012*.
4. *Defendant and any additional defendants* shall identify and submit *curriculum vitae and expert reports* of all expert witnesses intended to testify at trial not later than *01-OCT-2012*.
5. All *pre-trial motions* shall be filed not later than *01-OCT-2012*.
6. A *settlement conference* may be scheduled at any time after *01-OCT-2012*. Prior to the settlement conference all counsel shall serve all opposing counsel and file a settlement memorandum containing the following:
  - (a). A concise summary of the nature of the case if plaintiff or of the defense if defendant or additional defendant;
  - (b). A statement by the plaintiff or all damages accumulated, including an itemization of injuries and all special damages claimed by categories and amount;
  - (c). Defendant shall identify all applicable insurance carriers, together with applicable limits of liability.
7. A *pre-trial conference* will be scheduled any time after *03-DEC-2012*. Fifteen days prior to pre-trial conference, all counsel shall serve all opposing counsel and file a pre-trial memorandum containing the following:

**DOCKETED**

**OCT 24 2011**

**G. PELLETREAU**

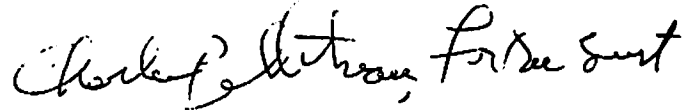
Joyce Vs Devastey Etal-CMOIS



11060003100027

- (a). A concise summary of the nature of the case if plaintiff or the defense if defendant or additional defendant;
  - (b). A list of all witnesses who may be called to testify at trial by name and address. Counsel should expect witnesses not listed to be precluded from testifying at trial;
  - (c). A list of all exhibits the party intends to offer into evidence. All exhibits shall be pre-numbered and shall be exchanged among counsel prior to the conference. Counsel should expect any exhibit not listed to be precluded at trial;
  - (d). Plaintiff shall list an itemization of injuries or damages sustained together with all special damages claimed by category and amount. This list shall include as appropriate, computations of all past lost earnings and future lost earning capacity or medical expenses together with any other unliquidated damages claimed; and
  - (e). Defendant shall state its position regarding damages and shall identify all applicable insurance carriers, together with applicable limits of liability;
  - (f). Each counsel shall provide an estimate of the anticipated length of trial.
8. *It is expected that the case will be ready for trial 07-JAN-2013*, and counsel should anticipate trial to begin expeditiously thereafter.
9. All counsel are under a continuing obligation and are hereby ordered to serve a copy of this order upon all unrepresented parties and upon all counsel entering an appearance subsequent to the entry of this Order.

**BY THE COURT:**



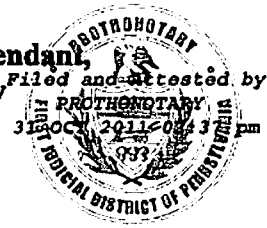
**WILLIAM MANFREDI, J.**  
**TEAM LEADER**

CZP:4754(REV 11/04)

Law Offices of James L. Barlow  
By: Susan J. Wiener, Esquire  
Attorney I.D. No.: 65301  
900 E. 8th Avenue, Suite 301  
King of Prussia PA 19406  
(610) 382-8100

---

Attorney for Defendant,  
Richard Devasety



FRANCES JOYCE

Plaintiff,

v.

RICHARD DEVASTEY  
AND  
JEFFREY CROOKS  
AND  
MARY CROOKS  
AND  
THOMAS GLEASON, JR.  
AND  
MARY GLEASON  
AND  
PROGRESS BANK OF FLORIDA, C/O FDIC  
AS RECEIVER PROGRESS BANK  
AND  
CITY OF PHILADELPHIA

Defendant.

---

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

JUNE TERM 2011


NO. 0031

**ENTRY OF APPEARANCE**

**TO THE PROTHONOTARY**

Kindly enter my appearance on behalf of defendant, Richard Devasety in the above captioned matter.

LAW OFFICES OF JAMES L. BARLOW

  
\_\_\_\_\_  
SUSAN J. WIENER, ESQUIRE  
Attorney for Defendant  
Richard Devasety



**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Entry of Appearance was served by first class mail, this 28 day of October, 2011 upon the following counsel of record:

Lee D. Rosenfeld, Esquire  
Messa & Associates, PC  
123 South 22nd Street  
Philadelphia PA 19103  
ATTORNEY FOR PLAINTIFF FRANCES JOYCE

Jeffrey Crooks  
6708 Dicks Avenue  
Philadelphia PA 19142  
ATTORNEY FOR CO-DEFENDANT JEFFREY CROOKS,  
UNREPRESENTED PARTY

Mary Crooks  
6708 Dicks Avenue  
Philadelphia PA 19142  
ATTORNEY FOR CO-DEFENDANT MARY CROOKS,  
UNREPRESENTED PARTY

Thomas Gleason, Jr.  
66 Springton Road  
Upper Darby PA 19082  
ATTORNEY FOR CO-DEFENDANT THOMAS GLEASON,  
JR., UNREPRESENTED PARTY

Progress Bank of Florida  
c/o FDIC as Receiver Progress Bank  
7777 Baymeadows Way West  
Jacksonville FL 32256  
ATTORNEY FOR CO-DEFENDANT PROGRESS BANK OF  
FLORIDA, C/O FDIC AS RECEIVER PROGRESS BANK,  
UNREPRESENTED PARTY

Mary Gleason  
66 Springton Road  
Upper Darby PA 19082  
ATTORNEY FOR CO-DEFENDANT MARY GLEASON,  
UNREPRESENTED PARTY

Pauline J. Manos, Esquire  
1515 Arch Street  
14th Floor  
Philadelphia PA 19102  
ATTORNEY FOR CO-DEFENDANT CITY OF  
PHILADELPHIA

  
\_\_\_\_\_  
SUSAN J. WIENER, ESQUIRE

MESSA & ASSOCIATES, P.C.  
 By: Joseph L. Messa, Jr., Esquire  
 Lee D. Rosenfeld, Esquire  
 Attorney I.D. No.: 53645 / 76081  
 123 South 22<sup>nd</sup> Street  
 Philadelphia, Pa. 19103  
 (215) 568-3500 / Fax: (215) 568-3501

This is a major case.

Jury Trial Demanded



Attorneys for Plaintiff

FRANCES JOYCE  
 Plaintiff

COURT OF COMMON PLEAS  
 PHILADELPHIA COUNTY

v.

June Term, 2011

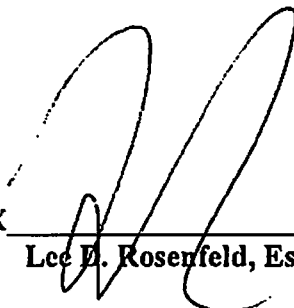
RICHARD DEVASTEY  
 ET AL

No: 000031

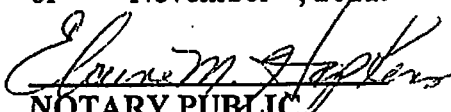
Defendants

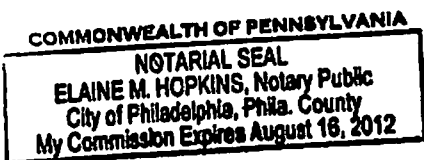
**AFFIDAVIT OF SERVICE**

Lee D. Rosenfeld, Esquire, being duly sworn according to law, deposes and says that Plaintiff's Complaint was served upon Defendant, Richard Devastey via Regular and Certified Mail on this 29<sup>th</sup> day of October, 2011. The Certified Mail Return Receipt is attached hereto, made a part hereof, and marked as Exhibit "A."

X   
 Lee D. Rosenfeld, Esquire

Sworn to and Subscribed  
 before me this 3<sup>rd</sup> day  
 of November, 2011.

  
 NOTARY PUBLIC



CERTIFIED MAIL RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$
Postmark Here	
Sent to <b>Richard Devastey</b> Street, Apt. No. or PO Box No. <b>4601 Kit Carson Trl</b> City, State, ZIP+4 <b>Kileen, TX 76542-4412</b>	
PS Form 3800, August 2005 See Reverse for Instructions	

**ASSOCIATES, P.C.**  
*Trial Attorneys*

123 South 22nd Street  
 Philadelphia, PA 19103  
 p 215.568.3500  
 p 215.940.7700  
 f 215.568.3501  
 toll free 877MESSALAW

■ Admitted to PA & NJ Bars  
 ■ Admitted to PA, NJ & GA Bars  
 ■ Admitted to PA Bar Only  
 ■ National Board of Trial Advocacy  
 ■ Certified Civil Trial Attorney  
 ■ LLM in Trial Advocacy  
 ■ LLM in Healthcare Law

[rosenfeld@messalaw.com](mailto:rosenfeld@messalaw.com)  
 (267) 765-1615 fax

October 26, 2011

**Certified Return Receipt Requested - 7006 2760 0004 9811 3260**  
**U.S. First Class Mail Postage Pre-Paid**

Mr. Richard Devastey  
 4601 Kit Carson Trl.  
 Kileen, TX 76542-4412

RE: Our Client - Francis Joyce  
 D/Accident - July 16, 2009  
 L/Accident - 6712 Dicks Avenue, Philadelphia, PA

Dear Mr. Devastey

This office represents Francis Joyce in connection with his claim for serious injuries he sustained as the result of a fall involving the property at 6712 Dicks Avenue, Philadelphia. Enclosed please find a time-stamped copy of a civil complaint filed against you in the above-captioned matter.

Please immediately send this letter to your liability insurance carrier putting them on notice of this claim and have a representative of that insurance company contact our office. If you did not have homeowner's insurance on the date of this accident, please contact our office personally. If you fail to respond to this action, within the next 30 days, without further notice and you could lose money or property or other rights important to you.

Your prompt attention and cooperation are appreciated.

Very truly yours,

Lee D. Rosenfeld

LDR/aa

6000-6002 Germantown Ave.  
 Philadelphia, PA 19144  
 p 215.844.1614  
 f 215.844.7646

923 Fayette St.  
 Conshohocken, PA 19426  
 p 215.940.7700  
 f 215.940.4015

1206 Indian Trail Drive  
 Downingtown, PA 19335  
 p 610.518.5328  
 f 610.518.1804

2091 Springdale Road, Suite Two  
 Cherry Hill, NJ 08003  
 p 856.810.9500  
 f 856.810.9918

605 New Road  
 Linwood, NJ 08221  
 p 609.601.1644  
 f 609.601.2237

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>1. Article Addressed to:</p> <p>Richard Devastey 4001 Kitz Carson Trl. Killeen, TX 76542-4412</p>		<p>A. Signature X <i>[Signature]</i> <input type="checkbox"/> Agent</p> <p>B. Received by (Printed Name) <i>DE VASTEY</i> <input type="checkbox"/> Addressee</p> <p>C. Date of Delivery <i>10/29/11</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:</p>	
<p>2. Article Number (Transfer from service label) 7006 2760 0004 9811 3260</p> <p>PS Form 3811, February 2004</p>		<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail  <input type="checkbox"/> Registered  <input type="checkbox"/> Insured Mail  <input type="checkbox"/> Express Mail  <input checked="" type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> C.O.D.  </p> <p>4. Restricted Delivery? (Extra Fee)  <input type="checkbox"/> Yes  <input checked="" type="checkbox"/> No         </p>	
Domestic Return Receipt		10295-02-00-1540	



1. Denied. After reasonable investigation, answering defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in the corresponding paragraphs of Plaintiff's Complaint. If relevant, strict proof at trial is hereby demanded.

2. Admitted in part, denied in part. It is admitted that Defendant, Richard Devastey, is an adult individual. The remaining allegations are denied, as defendant does not reside at the address plead. To the contrary, the defendant resides in Texas.

3--8. The allegations contained in the corresponding paragraphs of Plaintiff's Complaint are addressed to parties other than Answering Defendant and therefore no response is required. If relevant, strict proof at trial is hereby demanded.

9. Denied. The allegations contained in the corresponding paragraphs of Plaintiff's Complaint contain conclusions of law to which no response is required. If relevant, strict proof at trial is hereby demanded.

10. Admitted in part, denied in part. It is admitted only that, at all material times, the real property at 6714 Dicks Avenue, Philadelphia, PA was owned by Defendant, Richard Devastey. It is specifically denied that answering defendant operated, maintained and controlled the property and the abutting sidewalks and strict proof is demanded at trial. By way of further answer, at all material times, the defendant was a landlord out of possession.

11-13. The allegations contained in the corresponding paragraphs of Plaintiff's Complaint are addressed to parties other than Answering Defendant and therefore no response is required. If relevant, strict proof at trial is hereby demanded

14. Denied. After reasonable investigation, answering defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in

the corresponding paragraphs of Plaintiff's Complaint. If relevant, strict proof at trial is hereby demanded.

15. Denied. It is specifically denied that any defective condition existed at the aforesaid property and strict proof of same is demanded at trial. After reasonable investigation, answering defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in the corresponding paragraph of Plaintiff's Complaint. If relevant, strict proof at trial is hereby demanded.

### COUNT I

Answering Defendant incorporates paragraphs 1-15 of this Answer with New Matter as though same were set forth at length herein.

16. Denied. The allegations contained in the corresponding paragraph of Plaintiff's Complaint contain conclusions of law to which no response is required. If relevant, strict proof at trial is hereby demanded.

17-19. Denied. The allegations contained in the corresponding paragraphs of Plaintiff's Complaint contain conclusions of law to which no response is required. If relevant, it is specifically denied that there was any dangerous condition on the aforesaid property which caused the alleged injuries and strict proof at trial is hereby demanded.

20—24. Denied. After reasonable investigation, answering defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in the corresponding paragraphs of Plaintiff's Complaint. If relevant, strict proof at trial is hereby demanded.



WHEREFORE, Answering Defendant, Richard Devasety demands judgment in his favor and against Plaintiff, together with costs, attorney's fees and other such relief as this Court deems just and appropriate.

## COUNT II

Answering Defendant incorporates paragraphs 1-24 of this Answer with New Matter as though same were set forth at length herein.

25-33. The allegations contained in the corresponding paragraphs of Plaintiff's Complaint are addressed to parties other than Answering Defendant and therefore no response is required. If relevant, strict proof at trial is hereby demanded.

WHEREFORE, answering Defendant, Richard Devasety, demands judgment in his favor and against Plaintiff, together with costs, attorney's fees and other such relief as this Court deems just and appropriate.

## COUNT III

Answering Defendant incorporates paragraphs 1-33 of this Answer with New Matter as though same were set forth at length herein.

34-42. The allegations contained in the corresponding paragraphs of Plaintiff's Complaint are addressed to parties other than Answering Defendant and therefore no response is required. If relevant, strict proof at trial is hereby demanded.

WHEREFORE, answering Defendant, Richard Devasety, demands judgment in his favor and against Plaintiff, together with costs, attorney's fees and other such relief as this Court deems just and appropriate.

**COUNT IV**

Answering Defendant incorporates paragraphs 1-42 of this Answer with New Matter as though same were set forth at length herein.

43-50. The allegations contained in the corresponding paragraphs of Plaintiff's Complaint are addressed to parties other than Answering Defendant and therefore no response is required. If relevant, strict proof at trial is hereby demanded.

WHEREFORE, answering Defendant, Richard Devasety, demands judgment in his favor and against Plaintiff, together with costs, attorney's fees and other such relief as this Court deems just and appropriate.

**NEW MATTER DIRECTED AGAINST PLAINTIFF**

51. Plaintiff's Complaint fails to state a cause of action upon which relief may be granted.

52. Plaintiff's claims are barred in whole or part by the provisions of the Pennsylvania Comparative Negligence Act.

53. It is further averred that if the Plaintiff suffered any injuries and/or damages as alleged, they were caused solely and primarily by Plaintiff's own carelessness, recklessness and negligence.

54. By his actions on the date, time and place stated in Plaintiff's Complaint, Plaintiff did assume the risk of any and all injuries and/or damages which Plaintiff allege to have suffered.

55. If there is a legal responsibility for the damages set forth in Plaintiff's Complaint, then the responsibility is that of other individuals and/or entities over whom the Answering

Defendant has no control. Plaintiff's injuries and damages as alleged were not caused in any manner whatsoever by the Answering Defendant.

56. Plaintiff's claims are barred by the applicable Statute of Limitations.

57. In the event that the Plaintiff request damages for delay pursuant to Pa.R.C.P. 238, answering defendant challenge the applicability and constitutionality of said rule, and places same at issue.

58. If Plaintiff fell, which is specifically denied, it was not due to any act or omission of the Defendant.

59. If there was a dangerous or defective condition present on the premises in question, which is specifically denied, it was open and obvious and the Plaintiff should have been aware of the alleged condition and therefore the Defendant cannot be liable.

60. If the Plaintiff fell which is specifically denied, it was due to acts and/or omissions of the plaintiff.

61. If the Plaintiff fell which is specifically denied, it was due to his failure to observe where she was walking.

62. If the Plaintiff fell which is specifically denied, it was due to acts and/or omissions of persons and/or entities over whom the Answering Defendant had no control.

63. Answering Defendant asserts all defenses applicable to landlords out of possession.


WHEREFORE, Answering Defendant, Richard Devasety, demands judgment in his favor and against Plaintiff, together with costs, attorney's fees and other such relief as this Court deems just and appropriate.

**NEW MATTER CROSSCLAIM PURSUANT TO Pa.R.C.P. 1031.1  
DIRECTED TO CO-DEFENDANTS**

64 Pursuant to the provisions of Pa.R.C.P. 1031.1, the Answering Defendant, Richard Devasety, asserts that Co-Defendants, Progress Bank of Florida c/o FDIC as Receiver Progress Bank of Florida, Jeffrey Crooks, Mary Crooks, Thomas Gleason, Jr., Mary Gleason and City of Philadelphia are alone liable or are jointly and severally liable or are liable over to the Answering Defendant on the cause of action asserted by the Plaintiff, Frances Joyce, due to their negligence and/or carelessness; and therefore, the aforesaid Co-Defendants are severed and joined as Additional Defendants in this action.

WHEREFORE, Co-Defendants, Progress Bank of Florida c/o FDIC as Receiver Progress Bank of Florida, Jeffrey Crooks, Mary Crooks, Thomas Gleason, Jr., Mary Gleason and City of Philadelphia are alone liable or jointly or severally liable for injuries or losses which Plaintiff may have so sustained, and Answering Defendant demands judgment in his favor; however, if liability is imposed upon Answering Defendant, Richard Devastey, he demands that judgment be entered against the Additional Defendants for contribution and/or indemnity.

LAW OFFICES OF JAMES L. BARLOW

  
\_\_\_\_\_  
SUSAN J. WIENER, ESQUIRE  
Attorney for Defendant  
Richard Devasety

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Answer with New Matter was served electronically this 13 day of December, 2011 upon the following counsel of record:

Lee D. Rosenfeld, Esquire  
Messa & Associates, PC  
123 South 22nd Street  
Philadelphia PA 19103

ATTORNEY FOR PLAINTIFF FRANCES JOYCE

Jeffrey Crooks  
6708 Dicks Avenue  
Philadelphia PA 19142

ATTORNEY FOR CO-DEFENDANT JEFFREY CROOKS,  
UNREPRESENTED PARTY

Mary Crooks  
6708 Dicks Avenue  
Philadelphia PA 19142

ATTORNEY FOR CO-DEFENDANT MARY CROOKS,  
UNREPRESENTED PARTY

Thomas Gleason, Jr.  
66 Springton Road  
Upper Darby PA 19082

ATTORNEY FOR CO-DEFENDANT THOMAS GLEASON,  
JR., UNREPRESENTED PARTY

Progress Bank of Florida  
c/o FDIC as Receiver Progress Bank  
7777 Baymeadows Way West  
Jacksonville FL 32256

ATTORNEY FOR CO-DEFENDANT PROGRESS BANK OF  
FLORIDA, C/O FDIC AS RECEIVER PROGRESS BANK,  
UNREPRESENTED PARTY

Mary Gleason  
66 Springton Road  
Upper Darby PA 19082

ATTORNEY FOR CO-DEFENDANT MARY GLEASON,  
UNREPRESENTED PARTY

Pauline J. Manos, Esquire  
1515 Arch Street  
14th Floor  
Philadelphia PA 19102

ATTORNEY FOR CO-DEFENDANT CITY OF  
PHILADELPHIA



---

SUSAN J. WIENER, ESQUIRE

**VERIFICATION**

I, Richard Devasety, hereby state that I am a defendant in this matter and that all of the facts stated in the foregoing Answer with New Matter are true and correct to the best of my knowledge, information and belief. This Verification is taken subject to the penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsification to authorities.

  
RICHARD DEVASETY

Date:

MESSA & ASSOCIATES, P.C.  
By: Lee D. Rosenfeld, Esquire  
Attorney I.D. No.: 76081  
123 South 22<sup>nd</sup> Street  
Philadelphia, Pa. 19103  
(215) 568-3500 / Fax: (215) 568-3501

**This is a major case.  
Jury Trial Demanded**



**Attorneys for Plaintiff**

FRANCES JOYCE  
Plaintiff

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

v.

June Term, 2011

RICHARD DEVASTEY  
ET AL

No: 000031

Defendants

**PLAINTIFF'S REPLY TO NEW MATTER  
OF DEFENDANT, RICHARD DEVASTEY**

Plaintiff, Frances Joyce, by and through their attorneys, Messa & Associates, P.C.,  
hereby responds to Defendant, Richard Devastey avers as follows:

51. - 63. Denied as conclusions of law to which no responsive pleading is required  
by the Pennsylvania Rules of Civil Procedure. To the extent that these paragraphs contain  
allegations of fact, the Plaintiff is without sufficient knowledge or information to form a belief as  
to the truth of the averments, which are therefore denied. Strict proof to the contrary is therefore  
demanded at trial.

WHEREFORE, Plaintiffs demand judgment against the Defendants for an amount in  
excess of \$50,000.00, together with interest, attorneys fees and costs of suit.

By: \_\_\_\_\_  
Lee D. Rosenfeld, Esquire  
Attorney for Plaintiff

Dated: December 15, 2011



**CERTIFICATION OF SERVICE**

I do hereby certify that service of a true and correct copy of Plaintiffs' Reply to New Matter of Defendant, Richard Devastey, was made via United States First Class Mail, postage prepaid upon the counsel listed below:

Susan Wiener, Esquire  
Law Offices of James L. Barlow  
900 E. 8<sup>th</sup> Street, Suite 301  
King of Prussia, PA 19406  
**Attorney for Defendant Richard Devastey**

Pauline J. Manos, Esquire  
1515 Arch Street  
14<sup>th</sup> Floor  
Philadelphia, PA 19102  
**Attorney for Defendant City of Philadelphia**

Jeffrey Crooks  
6708 Dicks Avenue  
Philadelphia, PA 19142  
**Unrepresented Party**

Mary Crooks  
6708 Dicks Avenue  
Philadelphia, PA 19142  
**Unrepresented Party**

Thomas Gleason, Jr.  
6905 Chester Avenue  
Philadelphia, PA 19141  
**Unrepresented Party**

Mary Gleason  
6905 Chester Avenue  
Philadelphia, PA 19141  
**Unrepresented Party**

**MESSA & ASSOCIATES, P.C.**

**/s/ Lee D. Rosenfeld**  
BY: \_\_\_\_\_  
Lee D. Rosenfeld

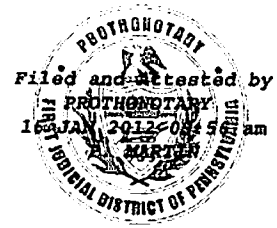
Dated: December 15, 2011

**Affidavit / Return of Service**

<b>Plaintiff:</b>	FRANCES JOYCE	<b>Court Term &amp; No.:</b> 110600031
		E-File# 1201010616
<b>Defendant:</b>	BERNARD AUGUST, INDIV. AND T/A MARISA	<b>Document Served:</b> Joinder Complaint
<b>Serve at:</b>	5601 CHESTER AVENUE	<b>Company Reference/Control No.:</b> WienerJoyce
<p>Served and Made Known to BERNARD AUGUST, INDIV. AND T/A MARISA MANGO REAL ESTATE on 12/30/2011 at 05:10 PM, in the manner described below:</p> <p><input type="checkbox"/> Party(s) personally served.</p> <p><input type="checkbox"/> Adult family member with whom said Party(s) resides. Relationship is: _____</p> <p><input type="checkbox"/> Adult in charge of Party's residence who refused to give name or relationship.</p> <p><input type="checkbox"/> Manager/Clerk of place of lodging in which Party(s) resides.</p> <p><input checked="" type="checkbox"/> Agent or person in charge of Party's office or usual place of business. NAME: BARBARA GAMBACORTO</p> <p><input type="checkbox"/> _____ and Officer of said Party company.</p> <p><input type="checkbox"/> Posting premises.      <input type="checkbox"/> Certified mail.      <input type="checkbox"/> First class regular mail.      <input type="checkbox"/> Publication.</p> <p><input type="checkbox"/> Occupant served.</p>		
<b>Description</b>	<b>Age:</b> 40	<b>Height:</b> 5' 4"
	<b>Weight:</b> 130 lbs.	<b>Race:</b> Caucasian
	<b>Sex:</b> Female	
<b>Other:</b>		
<p>On _____ at _____, _____ not found because:</p> <p><input type="checkbox"/> Moved      <input type="checkbox"/> Unknown      <input type="checkbox"/> No answer      <input type="checkbox"/> Vacant</p> <p><input type="checkbox"/> Other:</p>		
<p><b>Company Profile:</b> LEGAL-EASE ENTERPRISES INC 6137 MULBERRY STREET, #1 PHILADELPHIA PA 19135 PHONE: (215) 535-1532</p>		<p><b>Name of Server:</b> JACOB BOOTH</p> <p>Being duly sworn according to law, deposes and says that he/she is process server herein names; and that the facts herein set forth above are true and correct to the best of their knowledge, information and belief.</p>
		<b>Deputy Sheriff:</b>

FILED AND ATTESTED PRO-10-10-08 JAN 2012 09:23 PM

MARSHALL, DENNEHEY, WARNER,  
 COLEMAN & GOOGIN  
 BY: MICHAEL J. DEMPSEY, ESQ.  
 IDENTIFICATION NO.: 34454  
 620 FREEDOM BUSINESS CENTER  
 SUITE 300  
 KING OF PRUSSIA, PA 19406  
 (610) 354-8498  
 (610) 354-8299 (FAX)



Attorney for Bernard August, Ind. And t/a Marisa Mango Real Estate

FRANCES JOYCE	:	COURT OF COMMON PLEAS
	:	PHILADELPHIA COUNTY
v.	:	

RICHARD DEVASTEY	:	JUNE TERM, 2011
JEFFREY CROOKS;	:	
MARY CROOKS;	:	
THOMAS GLEASON, JR.;	:	
MARY GLEASON;	:	
PROGRESS BANK OF FLORIDA;	:	

v.	:	
----	---	--

BERNARD AUGUST, Ind. And	:	
t/a MANGO REAL ESTATE	:	
Additional Defendants	:	NO. 0031

**JURY TRIAL DEMAND**

**TO THE PROTHONOTARY:**

Kindly mark the above captioned matter **JURY TRIAL DEMANDED**.

By: Michael J. Dempsey, Esquire  
 MICHAEL J. DEMPSEY, ESQUIRE

Date: January 12, 2012  
 26/1848654.v1

MARSHALL, DENNEHEY, WARNER,  
 COLEMAN & GOOGIN  
 BY: MICHAEL J. DEMPSEY, ESQ.  
 IDENTIFICATION NO.: 34454  
 620 FREEDOM BUSINESS CENTER  
 SUITE 300  
 KING OF PRUSSIA, PA 19406  
 (610) 354-8498  
 (610) 354-8299 (FAX)



Attorney for Bernard August, Ind. And t/a Marisa Mango Real Estate

FRANCES JOYCE	:	COURT OF COMMON PLEAS
	:	PHILADELPHIA COUNTY

v. :

RICHARD DEVASTEY	:	JUNE TERM, 2011
JEFFREY CROOKS;	:	
MARY CROOKS;	:	
THOMAS GLEASON, JR.;	:	
MARY GLEASON;	:	
PROGRESS BANK OF FLORIDA;	:	

v. :

BERNARD AUGUST, Ind. And	:	
t/a MANGO REAL ESTATE	:	
Additional Defendants	:	NO. 0031

### ENTRY OF APPEARANCE

#### TO THE PROTHONOTARY:

Kindly enter my appearance as attorney for Defendant, BERNARD AUGUST, Ind. And t/a MARISA MANGO REAL ESTATE in the above captioned matter.

By: Michael J. Dempsey, Esquire  
 MICHAEL J. DEMPSEY, ESQUIRE

Date: January 16, 2012  
 26/1848647.v1

**CERTIFICATE OF SERVICE**

I, MICHAEL J. DEMPSEY, hereby certify that I electronically filed Defendant Bernard August, Ind. And t/a Marisa Mango Real Estate's Entry of Appearance and Jury Trial Demand, and will be served as follows:

1. Electronically by the Court, in accordance with Pa. Pa. R.C.P. 205.4(G); and can be viewed by counsel; or

2. In accordance with Pa. R.C.P. 440 via US. First Class Mail upon all parties not served electronically:

Jeffrey Crooks  
6708 Dicks Avenue  
Philadelphia, PA 19142

Mary Crooks  
6708 Dicks Avenue  
Philadelphia, PA 19142

Thomas Gleason, Jr.  
66 Springton Road  
Upper Darby, PA 19082

Mary Gleason  
66 Springton Road  
Upper Darby, PA 19082

Progress Bank of Florida  
c/o FDIC as Receiver Progress Bank  
7777 Baymeadows Way West  
Jacksonville, FL 32256

*Michael J. Dempsey*

Michel J. Dempsey, Esquire  
Attorney for Defendant,  
Bernard August, Ind. And t/a  
Marisa Mango Real Estate

Date: January 16, 2012

**FRANCES JOYCE**

**Plaintiff,**

**v.**

**RICHARD DEVASTEY**

**AND**

**JEFFREY CROOKS**

**AND**

**MARY CROOKS**

**AND**

**THOMAS GLEASON, JR.**

**AND**

**MARY GLEASON**

**AND**

**PROGRESS BANK OF FLORIDA, C/O FDIC**

**AS RECEIVER PROGRESS BANK**

**AND**

**CITY OF PHILADELPHIA**

**Defendant.**

**COURT OF COMMON PLEAS  
PHILADELPHIA, PENNSYLVANIA**

**JUNE TERM 2011**

**NO. 0031**

**ORDER**

AND NOW, this \_\_\_\_\_ day of January, 2012, upon consideration of Defendant, Richard Devasety's Motion to Compel Discovery to Plaintiff, it is hereby ORDERED and DECREED that said motion is GRANTED, and Plaintiff, Frances Joyce is hereby directed to produce verified and complete answers to Defendant's Interrogatories and Request for Production of Documents within twenty (20) days of the date of this Order or risk sanctions upon further application to the Court.

**BY THE COURT:**

**J.**

*Discovery Deadline: September 4, 2012*

**Law Offices of James L. Barlow  
By: Susan J. Wiener, Esquire  
Attorney I.D. No.: 65301  
900 E. 8th Avenue, Suite 301  
King of Prussia PA 19406  
(610) 382-8100**

**Attorney for Defendant,  
Richard Devasety**

**FRANCES JOYCE**

**Plaintiff,**

**v.**

**RICHARD DEVASTEY  
AND  
JEFFREY CROOKS  
AND  
MARY CROOKS  
AND  
THOMAS GLEASON, JR.  
AND  
MARY GLEASON  
AND  
PROGRESS BANK OF FLORIDA, C/O FDIC AS  
RECEIVER PROGRESS BANK  
AND  
CITY OF PHILADELPHIA**

**Defendant.**

**: COURT OF COMMON  
: PLEAS  
: PHILADELPHIA COUNTY**

**: JUNE TERM 2011**

**: NO. 0031**

**DEFENDANT'S MOTION TO COMPEL DISCOVERY DIRECTED TO PLAINTIFF**

1. On November 18, 2011 counsel for Defendant, Richard Devasety, served Interrogatories and a Request for Production of Documents upon Plaintiff by regular United States Mail, postage prepaid. (A true and correct copy of the transmitting letter is attached as Exhibit "A".)

2. Rule 4009 of the Pennsylvania Rules of Civil Procedure requires parties to answer discovery requests within thirty (30) days after service thereof.

3. The outstanding discovery is necessary in order for Moving Defendant to properly prepare his defense and will be severely prejudiced if said discovery is not responded to.

4. To date, Plaintiff has failed to provide Moving Defendant with answers to discovery, and a protective order has not been entered.

**WHEREFORE**, Defendant, Richard Devasety respectfully requests this Honorable Court to compel Plaintiff to produce the discovery designated in the attached order.

Respectfully submitted,

LAW OFFICES OF JAMES L. BARLOW



---

SUSAN J. WIENER, ESQUIRE  
Attorney for Defendant,  
Richard Devasety



Law Offices of James L. Barlow  
By: Susan J. Wiener, Esquire  
Attorney I.D. No.: 65301  
900 E. 8th Avenue, Suite 301  
King of Prussia PA 19406  
(610) 382-8100

---

Attorney for  
Defendant,  
Richard Devasety

FRANCES JOYCE

Plaintiff,

v.

RICHARD DEVASTEY  
AND  
JEFFREY CROOKS  
AND  
MARY CROOKS  
AND  
THOMAS GLEASON, JR.  
AND  
MARY GLEASON  
AND  
PROGRESS BANK OF FLORIDA, C/O FDIC AS RECEIVER  
PROGRESS BANK  
AND  
CITY OF PHILADELPHIA

Defendant.

---

: COURT OF  
: COMMON PLEAS  
: PHILADELPHIA  
: COUNTY

: JUNE TERM 2011

: NO. 0031

**NOTICE OF PRESENTATION AND CERTIFICATION OF SERVICE**

To: Lee D. Rosenfeld, Esquire  
Messa & Associates, PC  
123 South 22nd Street  
Philadelphia PA 19103  
ATTORNEY FOR PLAINTIFF FRANCES JOYCE

Jeffrey Crooks  
6708 Dicks Avenue  
Philadelphia PA 19142  
UNREPRESENTED PARTY

Mary Crooks  
6708 Dicks Avenue  
Philadelphia PA 19142  
UNREPRESENTED PARTY

Thomas Gleason, Jr.  
66 Springton Road  
Upper Darby PA 19082  
UNREPRESENTED PARTY

Progress Bank of Florida  
c/o FDIC as Receiver Progress Bank  
7777 Baymeadows Way West  
Jacksonville FL 32256  
ATTORNEY FOR CO-DEFENDANT PROGRESS BANK OF FLORIDA, C/O FDIC AS  
RECEIVER PROGRESS BANK, UNREPRESENTED PARTY

Mary Gleason  
66 Springton Road  
Upper Darby PA 19082  
UNREPRESENTED PARTY

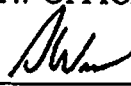
Pauline J. Manos, Esquire  
1515 Arch Street, 14th Floor  
Philadelphia PA 19102  
ATTORNEY FOR CO-DEFENDANT CITY OF PHILADELPHIA

Please take notice that the enclosed Motion to Compel will be presented to the Court as follows:

<b>DATE:</b>	See E-filing Approval form and/or Dockets
<b>TIME:</b>	9:00 a.m.
<b>LOCATION:</b>	See E-Filing Approval form and/or Dockets, City Hall, Phila., PA

I do hereby certify that service of a true and correct copy of Motion to Compel was served to all counsel electronically by the E-Filing system or by facsimile if counsel or the unrepresented party does not participate in E-Filing, on the date of E-Filing acceptance of the document.

LAW OFFICES OF JAMES L. BARLOW

  
\_\_\_\_\_  
SUSAN J. WIENER, ESQUIRE  
Attorney for Defendant,  
Richard Devasety

Law Offices of James L. Barlow  
By: Susan J. Wiener, Esquire  
Attorney I.D. No.: 65301  
900 E. 8th Avenue, Suite 301  
King of Prussia PA 19406  
(610) 382-8100

Attorney for  
Defendant,  
Richard Devastey

FRANCES JOYCE

Plaintiff,

v.

RICHARD DEVASTEY  
AND  
JEFFREY CROOKS  
AND  
MARY CROOKS  
AND  
THOMAS GLEASON, JR.  
AND  
MARY GLEASON  
AND  
PROGRESS BANK OF FLORIDA, C/O FDIC AS RECEIVER  
PROGRESS BANK  
AND  
CITY OF PHILADELPHIA

Defendant.

: COURT OF  
: COMMON PLEAS  
: PHILADELPHIA  
: COUNTY

: JUNE TERM 2011

: NO. 0031

**Attorney Certification of Good Faith**  
Pursuant to Phila.Civ.R. \* 208.2(e)

The undersigned counsel for movant hereby certifies and attests that:

☒ a. he has had the contacts described below with opposing counsel or unrepresented party regarding discovery matter contained in the foregoing discovery motion in an effort to resolve the specific discovery dispute(s) at issue and, further, that despite all counsel's good faith attempts to resolve the dispute(s), counsel have been unable to do so.

*Description:* Overdue letter sent on December 27, 2011

☐ b. he has made good faith but unsuccessful efforts described below to contact opposing counsel or unrepresented party in an effort to resolve the discovery dispute.

*Description:*

CERTIFIED TO THE COURT BY:

Date:

1/17/12

  
Attorney for Movant, Richard Devastey

**Note: The Signature of Respondent's Counsel Is Not Required**

**EXHIBIT A**

LAW OFFICES OF  
**JAMES L. BARLOW**

NOT A PARTNERSHIP  
900 E. 8<sup>th</sup> Avenue, Suite 301  
King of Prussia, PA 19406  
(610) 382-8100  
Fax (610) 382-8101

Employees of Farmers Insurance Exchange,  
A Member of the Farmers Insurance Group of Companies

JAMES L. BARLOW\*  
BRIAN D. BOYLE\*\*  
JOHN M. GUTHRIE\*  
GERALDINE M. LINN  
JASON P. McNICHOLL  
JOHN P. SILLI  
SUSAN J. WIENER\*\*

\*ALSO ADMITTED IN NJ & NY  
\*\* ALSO ADMITTED IN NJ

November 18, 2011

Lee D. Rosenfeld, Esquire  
Messa & Associates, PC  
123 South 22nd Street  
Philadelphia PA 19103

Re: Joyce v. Devasety, et al.  
Case No.: PCCP June Term 2011, No. 0031  
Our File No.: 11-165604

Dear Mr. Rosenfeld:

Enclosed please find defendant's Interrogatories and Request for Production of Documents that we request that you answer within the time allowed by the Pennsylvania Rules of Civil Procedure.

Thank you for your attention to this matter.

Sincerely,

Susan J. Wiener, Esquire  
Direct Line: (610) 382-8115

SJW/kls  
Encl.

cc: Roslyn Devastey  
Richard Devastey  
Capri R. Bonczek, Pennsylvania BCO - PA (Claim #: 1019940877-1-2)

**EXHIBIT B**

LAW OFFICES OF  
**JAMES L. BARLOW**

NOT A PARTNERSHIP  
900 E. 8<sup>th</sup> Avenue, Suite 301  
King of Prussia, PA 19406  
(610) 382-8100  
Fax (610) 382-8101

Employees of Farmers Insurance Exchange,  
A Member of the Farmers Insurance Group of Companies

JAMES L. BARLOW\*  
BRIAN D. BOYLE\*\*  
JOHN M. GUTHRIE\*  
GERALDINE M. LINN  
JASON P. McNICHOLL  
JOHN P. SILLI  
SUSAN J. WIENER\*\*

\*ALSO ADMITTED IN NJ & NY  
\*\* ALSO ADMITTED IN NJ

December 27, 2011

Lee D. Rosenfeld, Esquire  
Messa & Associates, PC  
123 South 22nd Street  
Philadelphia PA 19103

Re: Joyce v. Devasety, et al.  
Case No.: PCCP June Term 2011, No. 0031  
Our File No.: 11-165604

Dear Mr. Rosenfeld:

A review of my file shows that plaintiff's answers to interrogatories and requests for production of documents are overdue. Kindly serve verified and complete responses within ten (10) days to avoid the necessity of a motion to compel.

Thank you for your cooperation in this matter.

Sincerely,

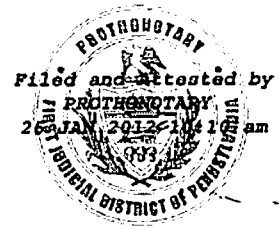
Susan J. Wiener, Esquire  
Direct Line: (610) 382-8115

SJW/kls

cc: Capri R. Bonczek – Pennsylvania BCO - (Claim no. 1019940877-1-2)

**MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOOGIN**

BY: MICHAEL J. DEMPSEY, ESQ.  
IDENTIFICATION NO.: 34454  
620 FREEDOM BUSINESS CENTER  
SUITE 300  
KING OF PRUSSIA, PA 19406  
(610) 354-8498  
(610) 354-8299 (FAX)



Attorney for Bernard August, Ind. And t/a Marisa Mango Real Estate

FRANCES JOYCE	:	COURT OF COMMON PLEAS
	:	PHILADELPHIA COUNTY

v.

RICHARD DEVASTEY	:	JUNE TERM, 2011
JEFFREY CROOKS;	:	
MARY CROOKS;	:	
THOMAS GLEASON, JR.;	:	
MARY GLEASON;	:	
PROGRESS BANK OF FLORIDA;	:	

v.

BERNARD AUGUST, Ind. And	:	
t/a MARISA MANGO REAL ESTATE	:	
Additional Defendants	:	NO. 0031

**ANSWER OF DEFENDANT, MANGO AND AUGUST, INC.**  
**(INCORRECT IDENTIFIED AS BERNARD AUGUST,**  
**INDIVIDUALLY AND T/A MARISA MANGO REAL ESTATE)**  
**TO JOINDER COMPLAINT OF DEFENDANT, RICHARD DEVASTEY**

1. Admitted in part; denied in part. It is admitted that Plaintiff, Frances Joyce, filed a Complaint against Defendant, Richard Devastey and other parties. Answering Additional Defendant denies any and all liability to any parties in Plaintiff's Complaint. By way of further Answer, Answering Additional Defendant incorporates herein by reference, his Answer to the Joinder Complaint, along with New Matter, as fully as though the same were herein set forth at length.



2. Denied. After reasonable investigation, Answering Defendants Additional Defendant is without knowledge or information sufficient to form a belief as to the truth of this averment and, therefore, must deny same.

3. Denied as stated and as conclusions of law to which no responsive pleading is required. By way of further Answer, the allegations in the Complaint speak for themselves and are addressed to parties other than Answering Defendants Additional Defendant herein, and, therefore, this allegation requires no response from Answering Additional Defendant.

4. Denied as stated and as conclusions of law to which no responsive pleading is required. By way of further Answer, the Answer by Richard Devastey to the Complaint speaks for itself and is addressed to parties other than Answering Additional Defendant herein, and, therefore, no response is required from Answering Additional Defendant herein.

5. Denied as stated and as conclusions of law to which no responsive pleading is required. By way of further Answer, the allegations of the Complaint are addressed to parties other than Answering Additional Defendant and, therefore, no response is required from Answering Additional Defendant herein. Further, Answering Additional Defendant denies any allegations in the Complaint as against Answering Additional Defendant and denies any and all liability to Richard Devastey or any other party, including Plaintiff, Frances Joyce.

6. Denied as stated and as conclusions of law to which no responsive pleading is required. By way of further Answer, it is denied that Answering Additional Defendant, Bernard August, trades as Marisa Mango Real Estate herein. To the contrary, Defendant, Bernard August, Individually and t/a Marisa Mango Real Estate is incorrectly identified in the Joinder Complaint of Richard Devastey. The correct identification of the entity is Mango and August, Inc. and not Richard Devastey, Individually and t/a Marisa Mango Real Estate.

7. Denied as stated and as conclusions of law to which no responsive pleading is required. By way of further Answer, it is denied that Additional Defendant, Bernard August, Individually and t/a Marisa Mango Real Estate, had a verbal or other contract with Defendant, Richard Devastey, to manage, maintain, inspect, repair and otherwise be responsible for the property at 6714 Dicks Avenue, Philadelphia, PA. By way of further Answer, it is denied that Additional Defendant, Mango and August, Inc., had a verbal or other contract with Defendant, Richard Devastey to manage, maintain, inspect, repair or otherwise be responsible for the real property located at 6714 Dicks Avenue, Philadelphia, PA. By way of further Answer, these allegations are conclusions of law to which no responsive pleading is required.

8. Denied as stated and as conclusions of law to which no responsive pleading is required. By way of further Answer, by Stipulation between the parties, former Additional Defendant Bernard August, Individually and t/a Marisa Mango Real Estate has been dismissed from this lawsuit and is substituted with Additional Defendant Mango and August, Inc. Further, to the extent that any of these averments are deemed factual, the averments are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e). Additionally, all allegations of negligence, carelessness and/or negligent omissions on the part of Additional Defendant are specifically denied herein. Further, it is denied that Additional Defendant failed to maintain the said real property in a safe manner and further deny that Additional Defendant failed to inspect the said real property or repair any alleged dangerous conditions on the premises and sidewalk. It is further denied that Additional Defendant failed to report and/or warn Defendant, Devastey and Plaintiff of any alleged dangerous conditions on the premises and sidewalk. By Stipulation between the parties, Paragraph 8(d) has been dismissed. Lastly, all allegations that the alleged

damages sustained or suffered by Plaintiff were caused by any negligence, carelessness, or negligent omissions of Additional Defendant are denied.

9. Denied as stated and as conclusions of law to which no responsive pleading is required. By way of further Answer, these averments are denied pursuant to Pa. R.C.P. 1029(e). Further, Additional Defendant denies that Plaintiff's alleged damages were caused in any way by the actions, omissions, carelessness, negligence, breach, or negligent omissions of Answering Additional Defendant herein. Further, Additional Defendant denies that it is liable over to Defendant, Richard Devastey, to Plaintiff's cause of action. By way of Stipulation by the parties, the allegation that Addition Defendant is solely liable to the Plaintiff or jointly or severally liable on Plaintiff's cause of action has been withdrawn and dismissed

**WHEREFORE,** Additional Defendant, Mango and August, Inc. (Incorrectly previously identified as Bernard August, Individually and t/a Marisa Mango Real Estate), respectfully requests judgment in its favor and against Richard Devastey and against Plaintiff and all other parties herein. Additionally, Answering Additional Defendant respectfully requests that the Joinder Complaint against Additional Defendant be denied and dismissed in its entirety with counsel fees and costs awarded to Answering Additional Defendant. Further, Answering Additional Defendant respectfully requests judgment that it is not liable over to Defendant, Richard Devastey, for contribution or indemnity to Plaintiff's cause of action

**NEW MATTER**

1. Upon information and belief, Plaintiff's claims or certain of them are barred and/or reduced by the Pennsylvania Comparative Negligence Act.
2. Upon information and belief, Plaintiff's claims fail to state a cause of action against Additional Defendant upon which relief may be granted.

3. Inasmuch as Pennsylvania Rule of Civil Procedure 1032 provides that a party waives all defenses not presented by way of Answer, Additional Defendant, upon advice of counsel, hereby asserts all affirmative defense not otherwise enumerated herein. As set forth in the Pennsylvania Rules of Civil Procedure 1030, the said affirmative defenses include, *inter alia*, estoppel, immunity from suit, release, statute of limitations, et al. The said affirmative defenses are subject to demonstration during the discovery process and proof at the time of trial.

4. Upon information and belief, the claims and/or injuries and damages alleged by Plaintiff and by Defendant, Richard Devastey, in his Joinder Complaint, are due solely to the conduct of others including entities, individuals and/or parties over whom Answering Additional Defendant had no legal responsibility or control.

5. Upon information and belief, Plaintiff's claims and the claims of Defendant, Richard Devastey, are barred and/or limited by the Doctrine of Release and Accord and Satisfaction.

6. There is and was no written contract between Answering Additional Defendant and Richard Devastey to manage, maintain, inspect, repair, or otherwise be responsible for the real property located at 6714 Dicks Avenue, Philadelphia, PA.

7. Additional Defendant's Joinder Complaint fails to state a cause of action against Additional Defendant upon which relief may be granted.

8. There is no verbal contract between Defendant, Richard Devastey, and the Answering Additional Defendant to manage, maintain, inspect, repair and otherwise be responsible for the real property located at 6714 Dicks Avenue, Philadelphia, PA. The Joinder Complaint of Defendant, Richard Devastey, fails to state a cause of action against Additional

Defendant in that it fails to state the date of the purported Contract, the terms for the purported Contract, and the consideration for same.

9. Plaintiffs alleged injuries and damages were not caused by any negligence, carelessness, acts, omissions or failure to act on the part of Answering Additional Defendant herein.

10. Answering Additional Defendant denies that it in any way breached any agreement, verbal or otherwise, to or between Richard Devastey and Answering Defendants Additional Defendant which in any way caused injuries or damages to Plaintiff or Defendant, Richard Devastey, or any other party herein.

11. Answering Additional Defendant denies that it owed any duty of care to Defendant, Richard Devastey, or to Plaintiff or any other party herein.

12. Answering Additional Defendant verbally agreed with Defendant Richard Devastey to assist him in renting the property and to collect rents and to notify him of complaints by tenants relative to the property at 6714 Dicks Avenue, Philadelphia, PA but did not agree, verbally or otherwise, to manage, maintain, inspect, repair and otherwise be responsible for the real property located at 6714 Dicks Avenue, Philadelphia, PA.

13. Richard Devastey has failed to produce any written Contract between him and Answering Additional Defendant and, therefore, his claim for breach of contract must be dismissed.

14. As the owner of the property at 6714 Dicks Avenue, Philadelphia, PA, on the date of the alleged incident, Richard Devastey is responsible and liable for the management, maintenance, inspection, and repair of any dangerous and/or defective conditions on the property, including the sidewalk therein.

15. As owner of the property at 6714 Dicks Avenue, Philadelphia, PA on the date of the alleged incident, Richard Devastey's duty to manage, maintain, inspect, repair and otherwise be responsible for said real property, is a non-delegable duty and, therefore, Richard Devastey remains responsible and liable for the management, maintenance, inspection, repair and responsibility for the said property.

16. Upon information and belief, purported Contracts and Agreements relative to the management, maintenance, inspection, repair and responsibility for real property, must be in writing. The alleged Agreement between Richard Devastey and Answering Additional Defendant may be subject to the Statute of Frauds and cannot form the basis of any alleged breach by Answering Additional Defendant for failure to produce a written Contract with specific terms of the purported Agreement, including the date, terms and consideration for same.

17. To the extent that there was any dangerous or defective conditions on the premises and sidewalk of Richard Devastey's real property located at 6714 Dicks Avenue, Philadelphia, PA on the alleged date of the incident, said conditions were caused by Richard Devastey in failing to manage, maintain, inspect, repair or otherwise be responsible for the said real property.

18. Richard Devastey is not entitled to any protection against liability on a theory of owner/landlord out of possession.

19. Answering Additional Defendant is not liable to Richard Devastey for indemnity or contribution and is not liable over to Richard Devastey herein.

20. Plaintiff's Complaint fails to state a cause of action upon which relief may be granted.

21. To the extent that Plaintiff suffered any injuries and/or damages as alleged, they were caused solely and primarily by Plaintiff's own carelessness, recklessness and negligence and/or the negligence of others named in Plaintiff's Complaint.

22. To the extent that Plaintiff suffered injuries and damages as alleged, the injuries and damages were caused by and the result of Plaintiff's failure to observe where he was walking and/or by the alleged dog chasing him and not by any dangerous or defective condition of the sidewalk at 6714 Dicks Avenue, Philadelphia, PA.

23. To the extent that any dangerous or defective conditions existed on the property at 6714 Dicks Avenue, Philadelphia, PA on the date alleged, which is denied, said conditions were open and obvious to Plaintiff Joyce and therefore any recovery by him is barred or reduced by the Comparative Negligence Act.

24. Upon information and belief, Plaintiff, Joyce, may have failed to mitigate his damages.

25. To the extent that Plaintiff, Joyce, sustained injuries or damages as alleged in his Complaint, said injuries and damages were caused solely and/or in part by the negligence and carelessness of Defendants, Jeffrey Crooks, Mary Crooks, Thomas Gleason, Jr. and Mary Gleason as alleged in Count IV of Plaintiff Joyce's Complaint, including Paragraphs 43 through 50, inclusive.

26. To the extent that Plaintiff sustained injuries or damages as alleged in his complaint, said injuries and damages were caused solely and/or in part by the negligence and carelessness of Defendants, Progress bank and City of Philadelphia as alleged in Counts II and III of Plaintiff's Complaint.

27. To the extent that Plaintiff sustained injuries or damages as alleged in his complaint, said injuries and damages were caused solely and/or in part by the negligence and carelessness of Defendant, Richard Devastey, as alleged in Count I of Plaintiff's Complaint.

**WHEREFORE**, Answering Additional Defendant respectfully requests that judgment be entered in its favor and against Defendant, Richard Devastey, and against Plaintiff and all other parties herein. Further, Answering Additional Defendant respectfully requests judgment in its favor and against Defendant, Richard Devastey, relative to his claim against Answering Additional Defendant herein. Further, Answering Additional Defendant respectfully requests judgment in its favor that it is not liable to Richard Devastey for indemnity or contribution to Plaintiff's cause of action.

Respectfully submitted,

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

By: Michael J. Dempsey, Esquire  
MICHAEL J. DEMPSEY, ESQUIRE

Date: January 26, 2012

26/1854330.v1



**VERIFICATION**

Bernard August being duly sworn according to law deposes and says that he is \_\_\_\_\_ of Defendant Mango and August, Inc., a defendant in the above captioned matter, and that the facts set forth in the foregoing Answer and New Matter to Joinder Complaint are true and correct to the best of his knowledge, information, and belief. This verification is subject to 18 Pa.C.S. §4904 which provides for certain penalties for making false statements.

MANGO AND AUGUST, INC.

By: \_\_\_\_\_  
BERNARD AUGUST

DATE: \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I, MICHAEL J. DEMPSEY, hereby certify that I electronically filed, on the date indicated, Additional Defendant Mango and August, Inc.'s (Incorrectly identified as Bernard August, Individually and t/a Marisa Mango Real Estate) Answer and New Matter to Joinder Complaint of Richard Devastey, and will be served as follows:

1. Electronically by the Court, in accordance with Pa. Pa. R.C.P. 205.4(G); and can be viewed by counsel; or
2. In accordance with Pa. R.C.P. 440 via US. First Class Mail upon all parties not served electronically.

**Michael J. Dempsey**

Michel J. Dempsey, Esquire  
Attorney for Defendant Mango and August,  
Inc.(Incorrectly identified as Bernard  
August, Individually and t/a Marisa Mango  
Real Estate)

Date: January 26, 2012

**MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOOGIN**

BY: MICHAEL J. DEMPSEY, ESQ.

IDENTIFICATION NO.: 34454

620 FREEDOM BUSINESS CENTER

SUITE 300

KING OF PRUSSIA, PA 19406

(610) 354-8498

(610) 354-8299 (FAX)

Attorney for Bernard August, Ind. And t/a Marisa Mango Real Estate

FRANCES JOYCE	:	COURT OF COMMON PLEAS
	:	PHILADELPHIA COUNTY

v.

RICHARD DEVASTEY	:	JUNE TERM, 2011
JEFFREY CROOKS;	:	
MARY CROOKS;	:	
THOMAS GLEASON, JR.;	:	
MARY GLEASON;	:	
PROGRESS BANK OF FLORIDA;	:	

v.

BERNARD AUGUST, Ind. And	:	
t/a MARISA MANGO REAL ESTATE	:	
Additional Defendants	:	NO. 0031

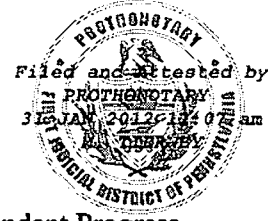
**NOTICE TO PLEAD**

To: ALL PARTIES

DATE: January 26, 2012

You are hereby notified to plead to the enclosed New Matter within twenty (20) days from service hereof or a Default Judgment may be entered against you.

BY: Michael J. Dempsey  
MICHAEL J. DEMPSEY, ESQ.



LAW OFFICE OF JEFFREY S. SALTZ, P.C.  
By: Jeffrey S. Saltz; Lisa B. Wershaw  
Attorney I.D. Nos. 29057; 41630  
Two Penn Center Plaza, Suite 1930  
1500 John F. Kennedy Boulevard  
Philadelphia, PA 19102  
(215) 523-5317

Attorneys for Defendant Progress  
Bank of Florida, c/o FDIC as Receiver

FRANCES JOYCE

Plaintiff

v.

RICHARD DEVASTEY, et al.

Defendants

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

CIVIL ACTION

JUNE TERM 2011

### ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter our appearance on behalf of Defendant Progress Bank of Florida, C/O FDIC as Receiver of Progress Bank ("FDIC") without waiver of any and all defenses that FDIC has to this action including, but not limited to jurisdiction, venue and exhaustion of statutory and administrative remedies.

s/Lisa B. Wershaw

Jeffrey S. Saltz

PA Bar I.D. Nos. 29057; 41630

Attorneys for Defendant Progress Bank of  
Florida, c/o FDIC as Receiver

Case ID: 110600031

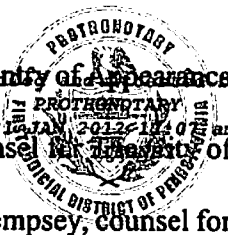
**CERTIFICATE OF SERVICE**

I hereby certify that on January 31, 2012, I caused the foregoing Entry of Appearance, to be served on Lee D. Rosenfeld, counsel for Plaintiff, Pauline J. Manos, counsel for Plaintiff of Philadelphia, Susan J. Wiener, counsel for Richard Devastey, and Michael J. Dempsey, counsel for Bernard August, Indiv. and T/A Marisa Mango Real Estate, through the Court's Electronic Filing System, and that on the same day I caused a paper copy to be served by first-class mail on unrepresented Defendants, as follows:

Jeffrey and Mary Crooks  
6708 Dicks Avenue  
Philadelphia, PA 19142

Thomas and Mary Gleason  
66 Springton Road  
Upper Darby, PA 19082

s/ Lisa B. Wershaw  
Lisa B. Wershaw



# PHILADELPHIA COURT OF COMMON PLEAS PETITION/MOTION COVER SHEET

FOR COURT USE ONLY	
ASSIGNED TO JUDGE:	ANSWER/RESPONSE DATE: 02/27/2012
Do not send Judge courtesy copy of Petition/Motion/Answer/Response. Status may be obtained online at <a href="http://courts.phila.gov">http://courts.phila.gov</a>	

## CONTROL NUMBER:

12020682

(RESPONDING PARTIES MUST INCLUDE THIS  
NUMBER ON ALL FILINGS)

June Term, 2011  
Month Year  
No. 00031

JOYCE VS DEVASTEY ETAL

Name of Filing Party:

PROGRESS BANK OF FLORIDA C/O FDIC

## INDICATE NATURE OF DOCUMENT FILED:

☐ Petition (Attach Rule to Show Cause) ☒ Motion  
☐ Answer to Petition ☐ Response to Motion

Has another petition/motion been decided in this case? ☐ Yes ☒ No  
 Is another petition/motion pending? ☐ Yes ☒ No

If the answer to either question is yes, you must identify the judge(s):

TYPE OF PETITION/MOTION (see list on reverse side)	PETITION/MOTION CODE (see list on reverse side)
MISCELLANEOUS MOTION	MTMIS
ANSWER / RESPONSE FILED TO (Please insert the title of the corresponding petition/motion to which you are responding):	
<b>I. CASE PROGRAM</b>  DAY FORWARD/MAJOR JURY PROGRAM  Name of Judicial Team Leader: <u>JUDGE MARLENE LACHMAN</u> Applicable Petition/Motion Deadline: <u>N/A</u> Has deadline been previously extended by the Court: <u>N/A</u>	<b>II. PARTIES (required for proof of service)</b> (Name, address and telephone number of all counsel of record and unrepresented parties. Attach a stamped addressed envelope for each attorney of record and unrepresented party.)  <u>LEE D ROSENFELD</u> <u>MESSA &amp; ASSOCIATES PC 123 SOUTH 22ND STREET , PHILADELPHIA PA 19103</u> <u>JEFFREY CROOKS</u> <u>6708 DICKS AVENUE , PHILADELPHIA PA 19142</u> <u>MARY CROOKS</u> <u>66 DICKS AVENUE , PHILADELPHIA PA 19142</u> <u>THOMAS GLEASON</u> <u>66 SPRINGTON ROAD , UPPER DARBY PA 19082</u> <u>MARY GLEASON</u> <u>66 SPRINGTON ROAD , UPPER DARBY PA 19082</u> <u>PAULINE J MANOS</u> <u>1515 ARCH STREET 14TH FLOOR ,</u>
<b>III. OTHER</b>	

By filing this document and signing below, the moving party certifies that this motion, petition, answer or response along with all documents filed, will be served upon all counsel and unrepresented parties as required by rules of Court (see PA. R.C.P. 206.6, Note to 208.2(a), and 440). Furthermore, moving party verifies that the answers made herein are true and correct and understands that sanctions may be imposed for inaccurate or incomplete answers.

February 2, 2012  
 (Attorney Signature/Unrepresented Party)

(Date)

LISA B. WERSHAW  
 (Print Name)

(Attorney I.D. No.)

The Petition, Motion and Answer or Response, if any, will be forwarded to the Court after the Answer/Response Date.  
 No extension of the Answer/Response Date will be granted even if the parties so stipulate.

PHILADELPHIA PA 19102

SUSAN J WIENER

LAW OFFICES OF JAMES L. BARLOW 900 E.  
8TH AVENUE SUITE 301 , KING OF  
PRUSSIA PA 19406

MICHAEL J DEMPSEY

620 FREEDOM BUSINESS CENTER SUITE 300  
, KING OF PRUSSIA PA 19406

LISA B WERSHAW

LAW OFFICE OF JEFFREY SALTZ PC TWO  
PENN CENTER PLAZA 1500 JFK BLVD SUITE  
1930 , PHILADELPHIA PA 19102

**FILED**  
02 FEB 2012 11:52 am  
**Civil Administration**  
N. MONTE

LAW OFFICE OF JEFFREY S. SALTZ, P.C.

By: Jeffrey S. Saltz; Lisa B. Wershaw

Attorney I.D. Nos. 29057; 41630

Two Penn Center Plaza, Suite 1930

1500 John F. Kennedy Boulevard

Philadelphia, PA 19102

(215) 523-5317

Attorneys for Defendant Progress  
Bank of Florida, c/o FDIC as Receiver

FRANCES JOYCE

Plaintiff

v.

RICHARD DEVASTEY, et al.

Defendants

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

JUNE TERM 2011

NO. 0031

**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2012, upon consideration of the Motion of Defendant Progress Bank of Florida, c/o FDIC as Receiver, for Partial Refund of Filing Fee, it is hereby ORDERED that the Motion is GRANTED, and the Prothonotary shall issue to counsel for Defendant Progress Bank of Florida, c/o FDIC as Receiver, a refund of \$247.95, representing the erroneously assessed Jury Demand fee.

BY THE COURT

\_\_\_\_\_  
J.



**FILED**  
02 FEB 2012 11:52 am  
**Civil Administration**  
N. MONTE

LAW OFFICE OF JEFFREY S. SALTZ, P.C.  
By: Jeffrey S. Saltz; Lisa B. Wershaw  
Attorney I.D. Nos. 29057; 41630  
Two Penn Center Plaza, Suite 1930  
1500 John F. Kennedy Boulevard  
Philadelphia, PA 19102  
(215) 523-5317

Attorneys for Defendant Progress  
Bank of Florida, c/o FDIC as Receiver

FRANCES JOYCE

Plaintiff

v.

RICHARD DEVASTEY, et al.

Defendants

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

JUNE TERM 2011

NO. 0031

**MOTION OF DEFENDANT PROGRESS BANK OF FLORIDA, C/O FDIC AS  
RECEIVER, FOR PARTIAL REFUND OF FILING FEE**

Defendant Progress Bank of Florida, c/o FDIC as Receiver ("FDIC"), by its counsel, hereby moves the Court for a partial refund of the Defendant's First Filing fee charged by the Prothonotary. Specifically, FDIC seeks a refund of the \$247.94 Jury Demand fee, as the document filed by FDIC did not in fact include a jury demand.

1. On January 31, 2012, an Entry of Appearance of Jeffrey S. Saltz and Lisa B. Wershaw, of the Law Office of Jeffrey S. Saltz, P.C., was electronically filed on behalf of the FDIC.

2. Ms. Wershaw prepared and electronically filed the Entry of Appearance. A copy of the Entry of Appearance is appended hereto as Exhibit A. The Entry of Appearance does not contain a demand for a jury trial.

3. The Court's electronic filing website, for the filing of an Entry of Appearance, includes a screen with the following question: "Jury Demand as provided in Pa.R.C.P. No. 1007.1?"

4. Ms. Wershaw misunderstood the question. She did not realize the question was whether the *FDIC* was demanding a jury; rather, she thought the question was whether *any* of the parties to the action had demanded a jury.

5. Ms. Wershaw checked yes to the jury demand question because the Plaintiff had previously demanded a jury, even though her Entry of Appearance on behalf of the FDIC was not demanding a jury.

6. As the result of this mistake, the FDIC was automatically charged a total filing fee of \$407.48, which consisted of a Defendant's First Filing fee of \$154.54, a Jury Demand fee of \$247.94, and a credit card fee of \$5.00. A copy of the email notifying counsel of the acceptance of the Entry of Appearance for filing, including the assessment of a total filing fee of \$407.48, is appended hereto as Exhibit B.

7. Counsel informally requested from the Prothonotary a refund of the \$247.94 Jury Demand fee. The Prothonotary advised that a refund cannot be issued unless the Court so orders.

8. Ms. Wershaw acknowledges her error in completing the electronic filing screen. However, since the FDIC did not in fact demand a jury trial in this case, it is respectfully submitted that assessment of the fee would work an unwarranted hardship on FDIC's counsel.

WHEREFORE, the FDIC, by its counsel, respectfully requests that this Honorable Court direct a refund of the \$247.94 Jury Demand fee.

s/Lisa B. Wershaw  
Jeffrey S. Saltz  
Lisa B. Wershaw  
PA Bar I.D. Nos. 29057; 41630  
Attorneys for Defendant  
Progress Bank of Florida, c/o FDIC as Receiver

LAW OFFICE OF JEFFREY S. SALTZ, P.C.  
Two Penn Center Plaza, Suite 1930  
1500 John F. Kennedy Boulevard  
Philadelphia, PA 19102  
(215) 523-5317

**FILED**  
02 FEB 2012 11:52 am  
**Civil Administration**  
N. MONTE

LAW OFFICE OF JEFFREY S. SALTZ, P.C.

By: Jeffrey S. Saltz; Lisa B. Wershaw

Attorney I.D. Nos. 29057; 41630

Two Penn Center Plaza, Suite 1930

1500 John F. Kennedy Boulevard

Philadelphia, PA 19102

(215) 523-5317

Attorneys for Defendant Progress  
Bank of Florida, c/o FDIC as Receiver

FRANCES JOYCE

Plaintiff

v.

RICHARD DEVASTEY, et al.

Defendants

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

CIVIL ACTION

JUNE TERM 2011

**ENTRY OF APPEARANCE**

TO THE PROTHONOTARY:

Kindly enter our appearance on behalf of Defendant Progress Bank of Florida, C/O FDIC as Receiver of Progress Bank ("FDIC") without waiver of any and all defenses that FDIC has to this action including, but not limited to jurisdiction, venue and exhaustion of statutory and administrative remedies.

s/Lisa B. Wershaw

Jeffrey S. Saltz

PA Bar I.D. Nos. 29057; 41630

Attorneys for Defendant Progress Bank of  
Florida, c/o FDIC as Receiver

**CERTIFICATE OF SERVICE**

I hereby certify that on January 31, 2012, I caused the foregoing Entry of Appearance to be served on Lee D. Rosenfeld, counsel for Plaintiff, Pauline J. Manos, counsel for The City of Philadelphia, Susan J. Wiener, counsel for Richard Devastey, and Michael J. Dempsey, counsel for Bernard August, Indiv. and T/A Marisa Mango Real Estate, through the Court's Electronic Filing System, and that on the same day I caused a paper copy to be served by first-class mail on unrepresented Defendants, as follows:

Jeffrey and Mary Crooks  
6708 Dicks Avenue  
Philadelphia, PA 19142

Thomas and Mary Gleason  
66 Springton Road  
Upper Darby, PA 19082

s/ Lisa B. Wershaw  
Lisa B. Wershaw

**FILED**

02 FEB 2012 11:52 am

**Civil Administration**

N. MONTE

**Lisa B. Wershaw**

---

**From:** <cp-efiling@courts.phila.gov>  
**Date:** Tuesday, January 31, 2012 12:19 PM  
**To:** <lwershaw@saltzlaw.com>  
**Subject:** Acceptance of your E-Filing #1201050296

Dear Lisa B. Wershaw,

The legal paper you electronically presented for filing has been reviewed by the Prothonotary of Philadelphia County and is deemed filed as noted below.

The following information is provided for your records:

**Caption:**  
**JOYCE VS DEVASTEY ETAL**  
**Case Number: 110600031**

**Date Reviewed and Accepted:**  
**January 31, 2012 12:19 pm EDT/DST**

**Date Presented to the Prothonotary for Filing**  
**and Date Deemed Filed:**  
**January 31, 2012 11:07 am EDT/DST**  
**Type of Pleading/Legal Paper:**  
**ENTRY OF APPEARANCE FILED**

**E-File No.: 1201050296**  
**Confirmation No.: 4AF4101A0**  
**Personal Reference No.: FDIC**  
**Filing Fee: \$ 407.48**

To retrieve the legal paper filed and any related notice, order or legal paper, log in to the Electronic Filing Web Site at <http://courts.phila.gov> using the Court-issued User Name and Password. You may also go directly to the legal paper/document by copying and pasting the following web address(es) into your browser or by clicking the link(s) below to view the related document(s). Each link represents a separate document filed in connection with this matter. Utilizing the link(s) below will only take you to the actual document. You will not be logged into the court's electronic filing system.

**Certificate of Service.pdf**  
[https://fjdefile.phila.gov/efs/fjd/zk\\_calib.open\\_doc?h=zdbfecz0grF2E1011](https://fjdefile.phila.gov/efs/fjd/zk_calib.open_doc?h=zdbfecz0grF2E1011)

**Entry of Appearance.pdf**  
[https://fjdefile.phila.gov/efs/fjd/zk\\_calib.open\\_doc?h=zecfdy0hsF1D11Jk](https://fjdefile.phila.gov/efs/fjd/zk_calib.open_doc?h=zecfdy0hsF1D11Jk)

As authorized by Pa.R.C.P. No. 205.4(g)(2)(ii), an email message is being sent to the parties or counsel listed below informing them that the above legal paper has been filed and is available together with any related notice, order or legal paper for review and retrieval on the system's website:

Parties in case no. 110600031

JEFFREY S SALTZ (ATTORNEY FOR DEFENDANT)  
- SENT 01/31/12 12:19 PM

MICHAEL J DEMPSEY (ATTORNEY FOR ADDITIONAL DFT)  
- SENT 01/31/12 12:19 PM

SUSAN J WIENER (ATTORNEY FOR DEFENDANT)  
- SENT 01/31/12 12:19 PM

LEE D ROSENFELD (ATTORNEY FOR PLAINTIFF)  
- SENT 01/31/12 12:19 PM

PAULINE J MANOS (ATTORNEY FOR DEFENDANT)  
- SENT 01/31/12 12:19 PM

PROGRESS BANK OF FLORIDA C/O FDIC AS RECEIVER PROGRESS BANK  
(DEFENDANT)  
- NOT SENT NO EMAIL ON FILE

JEFFREY CROOKS (DEFENDANT)  
- NOT SENT NO EMAIL ON FILE

MARY CROOKS (DEFENDANT)  
- NOT SENT NO EMAIL ON FILE

THOMAS GLEASON (DEFENDANT)  
- NOT SENT NO EMAIL ON FILE

MARY GLEASON (DEFENDANT)  
- NOT SENT NO EMAIL ON FILE

The above listed counsel and unrepresented parties, where indicated, are deemed to have been served with the above legal paper and any related notice, order or legal paper. The filing party shall serve the legal paper on all other parties as required by Pa.R.C.P.No.440 et seq., and other applicable rules of court.

Pursuant to Pa.R.C.P. No. 3108 service of the attached writ shall be made by the sheriff.

You are reminded that Pa.R.C.P. No. 205.4 requires that a hard copy

of the legal paper you have filed electronically be signed and, as applicable, verified concurrently with the electronic filing of the legal paper, and shall be maintained by you for two (2) years after the later of: (i) the disposition of the case; (ii) the entry of an order resolving the issue raised by the legal paper; or (iii) the disposition by an appellate court of the issue raised by the legal paper.

At the request of any party, you must produce for inspection the original or a hard copy of a legal paper or exhibit within fourteen (14) days, or the court, upon motion, may grant appropriate sanctions.

THANK YOU,

JOSEPH H.EVERS  
PROTHONOTARY OF PHILADELPHIA

**D I S C L A I M E R**

-----  
The First Judicial District will use your electronic mail address and other personal information only for purposes of Electronic Filing as authorized by Pa. R.C.P. 205.4 and Philadelphia Civil \*Rule 205.4.

Use of the Electronic Filing System constitutes an acknowledgment that the user has read the Electronic Filing Rules and Disclaimer and agrees to comply with same.

-----  
This is an automated e-mail, please do not respond!



**FILED**  
02 FEB 2012 11:52 am  
**Civil Administration**  
N. MONTE

**CERTIFICATE OF SERVICE**

I hereby certify that on January 31, 2012, I caused the foregoing Motion of Defendant Progress Bank of Florida, c/o FDIC as Receiver for Partial Refund of Filing Fee to be served on Lee D. Rosenfeld, counsel for Plaintiff, Pauline J. Manos, counsel for The City of Philadelphia, Susan J. Wiener, counsel for Richard Devastey, and Michael J. Dempsey, counsel for Bernard August, Indiv. and T/A Marisa Mango Real Estate, through the Court's Electronic Filing System, and that on the same day I caused a paper copy to be served by first-class mail on unrepresented Defendants, as follows:

Jeffrey and Mary Crooks  
6708 Dicks Avenue  
Philadelphia, PA 19142

Thomas and Mary Gleason  
66 Springton Road  
Upper Darby, PA 19082

s/ Lisa B. Wershaw  
Lisa B. Wershaw

**FILED**  
02 FEB 2012 11:52 am  
**Civil Administration**  
N. MONTE

LAW OFFICE OF JEFFREY S. SALTZ, P.C.  
By: Jeffrey S. Saltz; Lisa B. Wershaw  
Attorney I.D. Nos. 29057; 41630  
Two Penn Center Plaza, Suite 1930  
1500 John F. Kennedy Boulevard  
Philadelphia, PA 19102  
(215) 523-5317

Attorneys for Defendant Progress  
Bank of Florida, c/o FDIC as Receiver

FRANCES JOYCE

Plaintiff

v.

RICHARD DEVASTEY, et al.

Defendants

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

JUNE TERM 2011

NO. 0031

**BRIEF IN SUPPORT OF MOTION OF DEFENDANT PROGRESS BANK OF  
FLORIDA, C/O FDIC AS RECEIVER FOR PARTIAL REFUND OF FILING FEE**

**I. MATTER BEFORE THE COURT**

Defendant Progress Bank of Florida, c/o FDIC as Receiver ("FDIC"), is requesting this Court to direct a partial refund of the Defendant's First Filing fee charged by the Prothonotary. Specifically, FDIC seeks a refund of the \$247.94 Jury Demand fee, as the document filed by FDIC did not in fact include a jury demand.

## **II. STATEMENT OF QUESTION INVOLVED**

Whether FDIC counsel should be permitted a refund of the \$247.94 Jury Demand fee where counsel mistakenly completed the electronic filing screen related to the jury demand and did not in fact demand a jury.

Proposed Answer: Yes.

## **III. FACTS**

On January 31, 2012, an Entry of Appearance of Jeffrey S. Saltz and Lisa B. Wershaw, of the Law Office of Jeffrey S. Saltz, P.C., was electronically filed on behalf of the FDIC. Ms. Wershaw prepared and electronically filed the Entry of Appearance. A copy of the Entry of Appearance is appended hereto as Exhibit A. The Entry of Appearance does not contain a demand for a jury trial. However, as explained more fully below, Ms. Wershaw misunderstood the electronic filing screen which inquired about a jury demand as asking whether any of the parties to the action had demanded a jury and not whether the FDIC was demanding a jury. Ms. Wershaw mistakenly checked yes to the question because Plaintiff had previously demanded a jury, not because she was demanding a jury on behalf of the FDIC.

## **IV. ARGUMENT**

FDIC counsel respectfully submits that she should be permitted a refund of the of the \$247.94 Jury Demand because she made a mistake, and assessment of the fee would work an unwarranted hardship on her. The Court's electronic filing website, for the filing of an Entry of Appearance, includes a screen with the following question: "Jury Demand as provided in Pa.R.C.P.

No. 1007.1?” Ms. Wershaw misunderstood the question. She did not realize the question was whether the *FDIC* was demanding a jury; rather, she thought the question was whether *any* of the parties to the action had demanded a jury. Ms. Wershaw checked yes to the jury demand question because the Plaintiff had previously demanded a jury, even though her Entry of Appearance on behalf of the FDIC was *not* demanding a jury.

As the result of this mistake, the FDIC was automatically charged a total filing fee of \$407.48, which consisted of a Defendant’s First Filing fee of \$154.54, a Jury Demand fee of \$247.94, and a credit card fee of \$5.00. A copy of the email notifying counsel of the acceptance of the Entry of Appearance for filing, including the assessment of a total filing fee of \$407.48, is appended hereto as Exhibit B. Counsel informally requested from the Prothonotary a refund of the \$247.94 Jury Demand fee. The Prothonotary advised that a refund cannot be issued unless the Court so orders.

Ms. Wershaw acknowledges her error in completing the electronic filing screen. However, since the FDIC did not in fact demand a jury trial in this case, it is respectfully submitted that assessment of the fee would be unfair and unduly punitive.

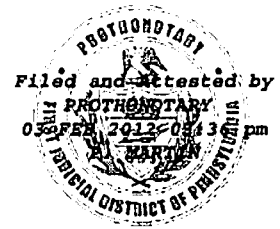
**V. RELIEF**

For the reasons stated above, counsel for the FDIC respectfully requests that this Honorable Court direct a refund of the \$247.94 Jury Demand fee.

s/Lisa B. Wershaw  
Jeffrey S. Saltz  
Lisa B. Wershaw  
PA Bar I.D. Nos. 29057; 41630  
Attorneys for Defendant  
Progress Bank of Florida, c/o FDIC as Receiver

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**MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOOGIN**  
BY: **MICHAEL J. DEMPSEY, ESQ.**  
IDENTIFICATION NO.: 34454  
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(610) 354-8498  
(610) 354-8299 (FAX)



Attorney for Bernard August, Ind. And t/a Marisa Mango Real Estate

FRANCES JOYCE : COURT OF COMMON PLEAS  
: PHILADELPHIA COUNTY

v. :

RICHARD DEVASTEY : JUNE TERM, 2011  
JEFFREY CROOKS; :  
MARY CROOKS; :  
THOMAS GLEASON, JR.; :  
MARY GLEASON; :  
PROGRESS BANK OF FLORIDA; :

v. :

MANGO AND AUGUST, INC. (Incorrectly:  
Identified as Bernard August, Individually :  
And t/a Marisa Mango Real Estate) :  
Additional Defendants : NO. 0031

**STIPULATION**

AND NOW, this 30<sup>TH</sup> day of January 2012, it is hereby AGREED and  
STIPULATED by and between the below listed counsel on behalf of Defendant, Richard  
Devastey and Additional Defendant, Mango & August, Inc. (Incorrectly identified as Bernard  
August, Individually and t/a Marisa Mango Real Estate) as follows:

1. The caption and all references in the Joinder Complaint referring to Additional  
Defendant as Bernard August, Individually and t/a Marisa Mango Real Estate, shall be amended

to delete that Additional Defendant, and, in its place, to substitute the identity of the Additional Defendant as Mango & August, Inc.;

2. The previously identified Additional Defendant, Bernard August, Individually and t/a Marisa Mango Real Estate, is dismissed from the Joinder Complaint;

3. All references to "Bernard August, Individually and t/a Marisa Mango Real Estate" shall now be interpreted in the pleadings to refer to "Mango and August, Inc."


4. The amendment to the caption and Joinder Complaint referred to in this Stipulation relates back to the time of the filing of the Joinder Complaint.

5. Paragraph 8(d) of the Joinder Complaint is Dismissed by agreement.

6. Paragraph 9 of the Joinder Complaint is amended to read as follows: "If it is proven at trial or otherwise judicially determined that the Plaintiff suffered damages as described in the Plaintiff's Complaint, said allegations being specifically denied, Richard Devastey avers that the Plaintiff's damages were the result of the actions, omissions, carelessness, negligence, breach and negligent omissions of Additional Defendant, Mango and August, Inc. and that Additional Defendant is liable over to Defendant, Richard Devastey, for contribution and/or indemnity to Plaintiff's cause of action." The original Paragraph 9 of the Joinder Complaint is Dismissed and substituted with the above-noted Paragraph 9.

7. The "Wherefore Clause" of the Joinder Complaint is amended to read as follows: "Wherefore, Defendant Richard Devastey, respectfully requests that judgment be entered in his favor and against Plaintiff. In the alternative, in the event that judgment is entered in favor of the Plaintiff, Defendant, Richard Devastey, respectfully requests that Additional Defendant, Mango and August, Inc. be held liable over to Defendant, Richard Devastey, for contribution and/or

indemnity to Plaintiff's cause of action". The original Wherefore Clause in the Joinder Complaint is Dismissed and is substituted with the above-noted "Wherefore Clause".

  
\_\_\_\_\_  
SUSAN J. WIENER, ESQUIRE  
Attorney for Richard Devastey

  
\_\_\_\_\_  
MICHAEL S. DEMPSEY, ESQUIRE  
Attorney for Mango & August, Inc.

APPROVED BY THE COURT:

\_\_\_\_\_  
J.



36 B,

FRANCES JOYCE

Plaintiff,

v.

RICHARD DEVASTHEY

AND

JEFFREY CROOKS

AND

MARY CROOKS

AND

THOMAS GLEASON, JR.

AND

MARY GLEASON

AND

PROGRESS BANK OF FLORIDA, C/O FDIC

AS RECEIVER PROGRESS BANK

AND

CITY OF PHILADELPHIA

Defendant.

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

JUNE TERM 2011

DOCKETED

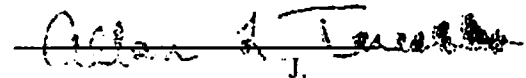
FEB 07 2012

NO. 0031

ORDER

AND NOW, this 7<sup>TH</sup> day of February, 2012, upon consideration of Defendant, Richard Devasety's Motion to Compel Discovery to Plaintiff, it is hereby ORDERED and DECREED that said motion is GRANTED, and Plaintiff, Frances Joyce is hereby directed to produce verified and complete answers to Defendant's Interrogatories and Request for Production of Documents within <sup>twenty-five (25)</sup> ~~twenty (20)~~ days of the date of this Order or risk sanctions upon further application to the Court, *by agreement.*

BY THE COURT:



Joyce Vs Devastey Etal-ORDER



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Discovery Deadline: September 4, 2012

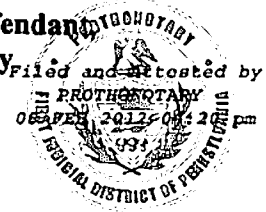
MOTION SUBMITTED

FEB 07 2012

BY AGREEMENT

Law Offices of James L. Barlow  
 By: Susan J. Wiener, Esquire  
 Attorney I.D. No.: 65301  
 900 E. 8th Avenue, Suite 301  
 King of Prussia PA 19406  
 (610) 382-8100

Attorney for Defendant  
 Richard Devasety



FRANCES JOYCE

Plaintiff,

v.

RICHARD DEVASTEY  
 AND  
 JEFFREY CROOKS  
 AND  
 MARY CROOKS  
 AND  
 THOMAS GLEASON, JR.  
 AND  
 MARY GLEASON  
 AND  
 PROGRESS BANK OF FLORIDA, C/O FDIC  
 AS RECEIVER PROGRESS BANK  
 AND  
 CITY OF PHILADELPHIA  
 Defendant

v.

BERNARD AUGUST, INDIV. AND T/A  
 MARISA MANGO REAL ESTATE

Additional Defendant.

COURT OF COMMON PLEAS  
 PHILADELPHIA COUNTY

JUNE TERM 2011


NO. 0031

REPLY ON BEHALF OF DEFENDANT, RICHARD DEVASETY TO  
 CROSSCLAIM OF ADDITIONAL DEFENDANT, MANGO AND AUGUST, INC.  
 (INCORRECTLY IDENTIFIED AS BARNARD AUGUST, INVID. AND T/A MARISA  
 MANGO REAL ESTATE)

1-27. Denied. The allegations contained in these paragraphs contain conclusions of law to which no response is required. To the extent same are deemed factual in nature, they are denied pursuant to Pa.R.C.P. 1029(e) and strict proof is demanded at trial, if relevant. By way of further answer, Defendant incorporates his Answer to Plaintiff's Complaint with New Matter as if fully set forth herein at length.

WHEREFORE, answering Defendant, Richard Devasety, demands judgment in his favor and against all other parties, together with costs, attorney's fees and other such relief as this Court deems just and appropriate.

LAW OFFICES OF JAMES L. BARLOW


  
By: SUSAN J. WIENER, ESQUIRE  
Attorney for Defendant  
Richard Devasety

**VERIFICATION**

I, Susan J. Wiener, Esquire, hereby state that I am counsel for defendant, Richard Devasety in this matter and that all of the facts stated in the foregoing Reply to Cross Claim are true and correct to the best of my knowledge, information and belief. This Verification is taken subject to the penalties of 18 Pa. C.S.A. § 4904, relating to unsworn falsification to authorities.

Date:

2/8/12

  
\_\_\_\_\_  
Susan J. Wiener, Esquire

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Reply to New Matter Crossclaim was served electronically, this 8 day of February, 2012 upon the following counsel of record:

Lee D. Rosenfeld, Esquire  
Messa & Associates, PC  
123 South 22nd Street  
Philadelphia PA 19103

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Philadelphia PA 19142

UNREPRESENTED PARTY

Mary Crooks  
6708 Dicks Avenue  
Philadelphia PA 19142

UNREPRESENTED PARTY

Thomas Gleason, Jr.  
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Upper Darby PA 19082

UNREPRESENTED PARTY

Mary Gleason  
66 Springton Road  
Upper Darby PA 19082

UNREPRESENTED PARTY

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14th Floor  
Philadelphia PA 19102

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PHILADELPHIA

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Marshall Dennehey Warner Coleman & Goggin  
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ATTORNEY FOR CO-DEFENDANT BERNARD AUGUST,  
INDIV. AND T/A/ MARISA MANGO REAL ESTATE

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1500 JFK Blvd.  
Philadelphia PA 19102

ATTORNEY FOR DEFENDANT PROGRESS BANK OF  
FLORIDA, C/O FDIC AS RECEIVER

Dated: February 8, 2012

  
\_\_\_\_\_  
SUSAN J. WIENER, ESQUIRE